



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शुक्रवार, 03 जनवरी, 2025 / 13 पौष, 1946

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the December, 2024

No: LEP-A006/7/2021-LEP.—In exercise of the powers vested under section 17 (1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of
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awards of the following cases announced by the Presiding Judge, Labour Court, Dharamshala on the website of the Printing & Stationery Department, Himachal Pradesh i.e. "e-Gazette" :—

Sl. No.	Ref. No.	Petitioner	Respondent	Date of Award/Order
1.	92/17	Fateh Singh	D.F.O. Suket	09-04-2024
2.	104/17	Naveen Kumar	D.F.O. Suket	09-04-2024
3.	457/16	Beli Ram	E.E.HPPWD, Killar	09-04-2024
4.	50/17	Roop Dei	E.E. HPPWD & IPH, Killar	09-04-2024
5.	17/20	Vijay Kumar	Principal, Govt. Medical College Chamba & other	10-04-2024
6.	29/20	Ajay Singh	- Do --	10-04-2024
7.	38/20	Naveen Kumar	- Do --	10-04-2024
8.	39/20	Ramesh Kumar	- Do --	10-04-2024
9.	43/20	Sonu	- Do --	10-04-2024
10.	159/17	Ajeet Singh	D.F.O. Hamirpur	22-04-2024
11.	68/18	Prakash Chand	Employer/Manager, A.T. Hydro Pvt. Ltd. Chamba	30-04-2024
12.	98/18	Brahmi	- Do --	30-04-2024
13.	99/18	Chuni Lal	- Do --	30-04-2024
14.	66/18	Man Singh	- Do --	30-04-2024
15.	63/18	Chaman	- Do --	30-04-2024
16.	67/18	Bhag Chand	- Do --	30-04-2024

By order,

Sd/-

(Dr. ABHISHEK JAIN, IAS),
Secretary (Lab. & Emp.).

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 92/2017

Date of Institution : 28.3.2017

Date of Decision : 9.04.2024

Shri Fateh Singh s/o Shri Ram Deyal, r/o Village Gehar, P.O. Nihri, Sub-Tehsil Nihri,
District Mandi, H.P. . . . *Petitioner.*

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P.
....*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Abhishek Lakhanpal, Ld. Adv.

For the respondent : Sh. Praveen Kumar, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether termination of the services of Shri Fateh Singh s/o Shri Ram Deyal, r/o Village Gaher, P.O. Nihri, Sub-Tehsil Nihri, District Mandi, H.P. during year, 2014 (as alleged by the workman) by the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer/management?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as forest worker by the respondent department in the year 1998 in Forest Division Sunder Nagar, District Mandi. The department has given fictional breaks in his services from time to time, therefore he could not complete 240 days in each calendar year whereas the workman junior to him had worked on muster roll/bill basis since his engagement. The respondent despite availability of sufficient funds and work gave artificial breaks in his service as the respondent used to engage new employees as and when they used to give breaks in his services. It has averred that similarly situated person namely Khub Chand and Kamal Chand to whom the fictional breaks were given and terminated from services, had approached this court and their claim were allowed and they have been regularized as per direction of this court. His services were terminated in contravention of the provisions of Section 25-F of the I.D.Act as the respondent neither served one month notice upon him nor retrenchment compensation was paid to him. As per seniority list dated 30.11.2011, the persons junior to him namely Jai Lal, Madan Lal, Smt. Sita Devi, Ramesh Kumar, Mast Ram etc. were retained in service and their services had been regularized later on by the department. Hence this petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability and delay and laches. On merits, it has been denied that the petitioner was engaged as forest worker in the year 1998. It has been averred that the petitioner never worked as daily wager with the department and therefore question of giving artificial breaks in his service does not arise at all. It has not been denied that the Khub Chand and Kamal had approached this court and their claims were allowed. It has been averred that the workers who have fulfilled the criteria for regularization as per the Govt. Policy, were regularized. Since the petitioner had not worked with the department, there was no necessity to serve notice under Section 25-F of the I.D. Act upon the petitioner. The petitioner is gainfully employed himself as an agriculturist. It has been prayed that the petition be dismissed.

5. On the pleadings of the parties, following issues were framed on 16.11.2022:—

1. Whether termination of the service of the petitioner by the respondent during the year 2014 is/was illegal and unjustified, as alleged? ..*OPP*.

2. If issue no.1 is proved in affirmative, to what relief, the petitioner is entitled to? ..*OPP*.

3. Whether the claim petition is not maintainable, as alleged? ..*OPR*.

4. Whether the claim petition is bad on account of delay and laches, as alleged? ..*OPR*.

Relief.

6. The petitioner was called upon to lead evidence and appeared as PW1 and closed the evidence.

7. On the other hand Deputy Conservator of Forest, Suket Shri Rakesh Katoch appeared as RW1 and closed the evidence.

8. I have heard the Learned Counsel for the petitioner as well as learned Assistant District Attorney for the respondent and gone through the case file carefully.

9. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No. 2 : None

Issue No. 3 : Yes

Issue No. 4 : No

Relief : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

10. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

11. The petitioner has alleged that he was engaged by the respondent as forest worker in the year 1998 and he worked in forest Division Sunder Nagar and that the respondent gave fictional breaks in his services and as such he could not complete 240 days in any calendar year and that the respondent illegally terminated his services without issuing any notice to him. It has also been alleged that the respondent has retained workers junior to him in service while terminating his services.

12. On the other hand, the respondent has denied that the petitioner was engaged as forest worker in the year 1998 and fictional breaks were given in his services.

13. The respondent has placed the mandays chart Ext. R1 on record. As per mandays chart the petitioner has not been worked even for a single day from the year 1998 to 2014.

14. Since the petitioner has claimed that he was engaged by the respondent as forest worker in the year 1998, the petitioner has not proved the same.

15. The petitioner has claimed that the respondent had given fictional breaks in his services. Hon'ble High Court in **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir**, has held that the onus to prove the fact that the respondent has given fictional/artificial breaks in his service is upon the petitioner and therefore, in view of the law laid down by the Hon'ble High Court, the petitioner has to prove that the respondent had given fictional breaks in his services.

16. The petitioner Fateh Singh in his substantiation claim appeared as PW1 and has stated that he was engaged as daily wage beldar in the forest department in the year 1998 and he was given fictional breaks by the department intentionally so that he could not complete 240 days in each calendar year. Despite availability of work, his services were terminated in the year 2014 by the respondent without following the procedure of law. Workmen junior to him were retained by the department. He has mentioned their names in para no.7 of his claim petition. Similarly situated persons had been granted relief by the court, whereas he is still out of work and he is therefore entitled to relief as claimed. He has also tendered on record copy of one muster roll Ext. PW1/A and copy of bill Ext. PW1/B in evidence. In his cross-examination, he has denied that he has never worked with the respondent as daily wage beldar. He has denied that he neither was engaged by the department at any point of time nor his services were terminated.

17. On the other hand, the respondent has examined Shri Rakesh Katoch, Dy. Conservator of Forest, Suket Forest Division, Sunder Nagar as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered mandays chart Ext. R-1 in evidence. In his cross-examination, he has stated that conciliation proceedings in this case were not conducted in his presence. He has not prepared the mandays chart Ext. R-1 and added that he has filed affidavit on the basis of the same. He has further stated that the seniority list of the daily wagers is not prepared at Divisional level. A list was prepared in their office and after taking over the charge of the office by him, he had added corrigendum through office order that it may be read as reference list in case of casual labourers. He has further stated that they have not produced said reference list on record. He has further stated that the department did not regularize the services of casual labourer. The daily wagers are regularized as per the policy of the Govt. or orders of the Court and the daily wagers are appointed by the Govt. and their period for regularization is counted on the basis of their salary record. Their mandays are prepared. They had not issued muster rolls. They have not produced any notification issued by the Government to prove that the forest department is a seasonal industry. He has admitted that in muster roll Ext. PW1/A the petitioner is shown to have worked for 29 days in the months of May and June, 1999. He has further admitted that in bill Ext. PW1/B the petitioner has shown to have worked on bill basis for 26 days in July, 2017. He has denied that it was the duty of the employer to prepare the mandays of the workman and added that it was not required in case of the workmen engaged on bill basis. He has admitted that as per muster roll Ext. PW1/A, the mandays chart Ext. RW1/B is incorrect. He has further denied that the forestry work is not a seasonal work. He has also denied that the petitioner has regularly worked with the department since 1998 till termination of his services. He has denied that the principle of 'last come first go' was violated by the department.

18. This is the entire evidence led by both the parties.

19. The petitioner has produced the muster roll from 21.5.199 to 20.6.1999 Ext. PW1/A as well as one bill of August, 2017 Ext. PW1/B on record. Rakesh Katoch, RW1, in his cross-examination, has admitted that as per muster roll Ext. PW1/A the petitioner is shown to have worked for 29 days in May and June, 1999 and as per bill Ext. PW1/B, the petitioner is shown to have worked on bill basis for 26 days in July, 2017 and as per muster roll mandays chart Ext. R-1 is

incorrect. However, the exhibition of both these documents, when the same were tendered in evidence by the petitioner, was objected to. The petitioner has not disclosed as to where from he has obtained the photocopy of the muster roll as well as bill. The bill Ext. PW1/B pertains to August, 2017 beyond the period of alleged termination of services of the petitioner in the year 2014 (as stated by petitioner Fateh Singh while appearing as PW1 but not pleaded in claim petition) and the petitioner has not pleaded anything about both these documents and he has neither pleaded date of his termination nor has pleaded that he was again engaged by the department after termination of his services in the year 2014.

20. Be that as it may, the petitioner except photocopy of one muster roll Ext. PW1/A w.e.f. 21.5.1999 to 26.6.1999 has not led any cogent evidence on record to prove that he was engaged in the year 1998 and he intermittently worked with the respondent department till the year 2014 when his services were allegedly terminated by the respondent. He has not got the record of the respondent department summoned to prove the muster roll Ext. PW1/A or any other record to prove that he had worked with the respondent department from the year 1998 to 2014 nor he has been examined any witness to prove this fact. Rakesh Katoch, RW1 has only admitted that as per muster roll Ext. PW1/A the petitioner is shown to have been worked for 29 days in the month of May and June, 1998 and as per muster the mandays chart Ext. R-1 is incorrect but he has not admitted that the petitioner worked with the respondent department and therefore, the muster roll Ext. PW1/A cannot be relied upon.

21. But even if the muster roll Ext. PW1/A is taken into consideration, it only proves that the petitioner had worked with the respondent department in the year 1999 for 29 days from 21.5.1999 to 20.6.1999. The petitioner has not led any cogent evidence to prove that he had worked with the respondent department from 21.6.1999 to the year 2014 and thus in the absence of any cogent evidence having been led to prove this fact, it cannot be held that the petitioner intermittently worked with the respondent department from June, 1998 to 2014. Hence the petitioner failed to prove that the respondent had given fictional breaks in his services and terminated his services in the year 2014.

22. The petitioner, as per muster roll Ext. PW1/A has worked for 29 days in 1999. The petitioner has failed to prove that he has worked for 240 days in any calendar year or during the period of 12 calendar months preceding the date of his alleged termination, therefore, he was not in continuous service as per provisions of Section 25-B of the I.D. Act.

23. As per the provisions of Section 25-F of the I.D. Act, the services of a workman, who has been in continuous service, can only be terminated after issuance of one month's notice indicating the reasons for termination or payment of one month's wages in lieu of notice period and retrenchment compensation, however, in the case in hand, the petitioner was not in continuous service under the respondent and therefore, even if for the sake of arguments it is assumed that the services of the petitioner were terminated, the respondent was not required to serve notice under Section 25-F of the I.D. Act upon the petitioner. Hence violation of Section 25-F is not proved.

24. The petitioner has also alleged violation of Sections 25-G and 25-H of the I.D. Act. The petitioner has pleaded that the persons junior to him namely Jai Lal, Madan Lal, Sita and Ramesh Kumar were junior to him and they have retained in service by the respondent while terminating his services and their services have also been regularized, however, he has not led any cogent evidence on record to prove the same. He stated that the workmen junior to him, whose names are mentioned in para No.7 of the petition, were retained by the department and similarly situated persons have been granted relief by this court, but he has not led any cogent evidence to prove that the workmen junior to him were retained in service by the respondent while terminating his services or fresh hands were engaged after alleged termination of his services and as such violation of Sections 25-G

and 25-H of the I.D. Act is also not proved. Hence the petitioner is not entitled to any relief. Hence both these issues are decided against the petitioner and is answered in negative.

Issue No. 3

25. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 4

26. As per the case of the petitioner his services were allegedly terminated by the respondent in the year 2014 and as per reference received from the appropriate Government he has raised industrial dispute in the year 2016 by issuing demand notice and therefore the claim of the petitioner cannot be said to be bad on account of delay and laches. Hence this issue is decided against the respondent and is answered in negative.

Relief

27. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

28. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 104/2017

Date of Institution : 28.3.2017

Date of Decision : 9.04.2024

Shri Naveen Kumar s/o Shri Kheema Ram, r/o Village and Post Office Seri-Kothi, Tehsil
Sunder Nagar, District Mandi, H.P.*Petitioner.*

Versus

The Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P.
....*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Abhishek Lakhanpal, Ld. Adv.

For the respondent : Sh. Praveen Kumar, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Naveen Kumar S/O Shri Kheema Ram, R/O Village and Post Office Seri-Kothi, Tehsil Sunder Nagar, District Mandi, H.P. by the Divisional Forest Officer, Suket Forest Division, Sunder Nagar, District Mandi, H.P. w.e.f. 27.07.2009 without complying with the provisions of the Industrial Disputes Act, 1947, as alleged by the worker, is legal and justified? If not, what amount of back wages, seniority, past service benefits and amount of compensation the above aggrieved worker is entitled to?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as forest worker by the respondent department on 1.1.1998 and he worked in Beat Balag and Gehru under Forest Range Kangoo till 27.7.2009. He has worked for more than 240 days continuously from 1998 to 2003, however, the respondent had given fictional breaks in his services from 2003 to 2009. The respondent verbally terminated his services on 27.7.2009 without any cause and without serving any notice upon him whereas the workmen junior to him namely Khub Chand, Kalu Ram, Bhawani Dutt, Chaman Lal, Abhilasu, Ramesh Kumar, Shyam Lal, Kolu Ram, Dina Nath, Hemraj, Roop Singh, Dhani Ram, Bhim Singh, Lal Singh, Dharam Singh, Kashmir Singh, Santosh Kumar, Govind Ram, Hansraj, Hoshier Singh, Muni Lal, Gopal Yada, Kala Devi, Pal Kumar, Lekhram, Daulat Ram, Nihal Singh, Chuni Lal, Gopala Ram, Shalig Ram and Devender Kumar were retained in service by the respondent. On 10.9.2002 and 15.9.2003, compromises were effected between the workers and employer through union before Labour-cum-Conciliation Officer, Mandi wherein it was agreed that the seniority list of all workmen would be prepared, but his seniority list was not prepared. He requested the respondent to re-engage him, but the respondent did not re-engage him whereas the workmen junior to him are provided regular work. He is still unemployed. Hence this petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability. On merits, it has been averred that as per record, the petitioner never worked as daily wager with the department and therefore question of retrenchment of his service or engagement of juniors did not arise at all. The petitioner is gainfully employed himself as an agriculturist. It has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 27.9.2019:—

1. Whether termination of services of the petitioner w.e.f. 27-07-2009 by the respondent is/was illegal and unjustified, as alleged? ..OPP.

2. If issue no.1 is proved in affirmative to what service benefits the petitioner entitled to? ..*OPP.*

3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*

Relief.

7. The petitioner was called upon to lead evidence. Besides himself he has examined one Jagdish Chand as PW2 and closed the evidence.

8. On the other hand Deputy Conservator of Forest, Suket Shri Rakesh Katoch appeared as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the petitioner as well as learned Assistant District Attorney for the respondent and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No. 2 : None

Issue No. 3 : Yes

Relief : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

11. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The petitioner has alleged that he was engaged by the respondent as forest worker on 1.1.1998 and he worked in forest Beat Seri and Gehru under Forest Range Kangoo till 27.7.2009 and that he worked for more than 240 days continuously from 1998 to 2003, however, the respondent gave fictional breaks in his services from 2003 to 2009 and illegally terminated his services on 27.7.2009 without issuing any notice to him. It has also been alleged that the respondent has retained workers junior to him in service while terminating his services.

13. On the other hand, the respondent has denied that the petitioner was engaged as forest worker and he worked with the department from 1.1.1998 to 27.7.2009.

14. The respondent has placed the mandays chart Ext. R1 on record. As per mandays chart the petitioner has not worked even for a single day with the respondent department from the year 1998 to 2009. Since the petitioner has claimed that he was engaged by the respondent as forest worker on 1.1.1998, he has to prove the same.

15. The petitioner has also claimed that the respondent had given fictional breaks in his services. Hon'ble High Court in **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir**, has held the onus to prove the fact that the respondent has given fictional/artificial breaks in his service is upon the petitioner and therefore, the petitioner has also to prove that the respondent has given fictional breaks in his services.

16. The petitioner Naveen Kumar, in substantiation of his claim appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition. He has stated that he was engaged on 1.1.1998 and continuously worked till 2003 and thereafter the respondent gave fictional breaks in his service from the year 2003 to September, 2009 and ultimately terminated his services in September, 2009. In his cross-examination, he has stated that he has not produced any record in the court to prove that he had worked with the respondent department and added that the record was maintained by the respondent department. He has admitted that the department has given his nil mandays and added that the same has wrongly been given and further added that he has regularly worked with the department. He has admitted that the presence of those workmen, reports for duty, is marked by the department.

17. The petitioner in his affidavit has also stated that Nant Ram was posted as chowkidar when he was working with the respondent department as beldar and he had seen him working with the department, however, he has not examined Nant Kumar; rather he has examined Jagdish Chand as PW2, who has also not corroborated his claim. He (PW2) has stated that he had worked with the petitioner occasionally. He used to work as seasonal labourer in forest department. He had seen the petitioner working permanently with the department in between 2002 to 2013. Now he has come to know that his services has been terminated.

18. Thus, it is evident that Jagdish Chand, PW2 has contradicted the statement/claim of the petitioner Naveen Kumar who has pleaded/stated that he had continuously worked with the respondent department w.e.f. 1.1.1998 upto 2003 and therefore the respondent gave fictional breaks in his service from 2003 to September, 2009 and his services were terminated in September, 2009 whereas Jagdish Chand PW2 has stated that the petitioner had continuously worked with the department w.e.f. 2002 to 2013, therefore his statement cannot be relied upon.

19. On the other hand, Dy. Conservator of Forest, Rakesh Katoch, RW1 has stated that as per available record, the petitioner never worked as daily wager with the department and he, despite his lengthy cross-examination, has maintained his stand. There is nothing in the evidence of Rakesh Katoch, RW1 from which it could be inferred that he was deposing falsely.

20. The petitioner has neither led any cogent evidence on record nor has produced any document to prove that he ever worked with the respondent department and therefore the evidence of the petitioner Naveen Kumar PW1 which has otherwise been contradicted by Jagdish Chand PW2 that he was engaged by the respondent on 1.1.1998 and he worked till September, 2009 cannot be accepted. Consequently, it can safely be concluded that the petitioner has failed to prove that he was engaged as beldar by the respondent department on 1.1.1998 and worked with the respondent department till 27.7.2009.

21. It is fairly well settled that when the petitioner failed to prove relationship of employee and employer in between him and the respondent, he is not entitled to any relief. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr., 2019 LLR 1109** in para Nos. 9 to 11 has held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and

employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

22. Hon'ble High Court of Punjab and Haryana in **SATINDER KUMAR SHARMA V/S STATE OF HARYANA AND OTHERS** reported in **2016 LLR 187** in para Nos. 7 to 12 has held as under:—

[7] Section 25F of the Industrial Disputes Act, 1947 postulates relationship of master and servant before the protections in the Act can come into play. If the management was not the employer, it was not obligated to comply with Section 25F but yet the Labour Court has held without due application of mind that violation of Section 25F of the Act has occurred while terminating the services of the workman by an oral order.

[8] A reading of the award reveals that it is vague, dissatisfactory and dubious in its weak line of judicial reasoning and this court has hardly any doubt that the impugned award does not deserve to be maintained. The award in denying reinstatement is right in its conclusion but wrong in its reasoning. Section 25F of the Act has no place in the award when the relationship of employment between the parties is not proved in the presence of an intermediary contractor inducting the petitioner and deputing him to carry out repairs in electric supply and for its maintenance from time to time.

[9] The burden of proof was on the petitioner to prove his case of illegal termination but he produced no probative evidence on file which might tend to prove his case except tendering an identity card and a gate pass. Regularity of payment of salary on fixed monthly wages has not been established on record by evidence which was the bare minimum requirement albeit that Section 2 (s) of the Act permits engagement of a workman for hire or reward, whether the terms of employment be express or implied.

[10] However, since the State has not challenged the award, I would not disturb the lump sum compensation of Rs. 50,000/- which will remain a State debt owed to the petitioner-workman. The award of interest @ 12% will stand deleted from the award and the compensatory part of the award will henceforth be read as a solatium of Rs. 50,000/- by way of apology for the costs of long drawn out litigation. There is no other way to describe what the labour court has meted out quite recklessly.

[11] The discretion exercised by the Labour Court or its evaluation of the evidence on record in arriving at the conclusion that the alleged termination suffered from the vice of non-compliance of the mandatory requirements of Section 25F of the Act is neither judicial nor judicious exercise of jurisdiction since the reasons for partly allowing the reference in awarding compensation is not in accordance with law.

[12] The correct position in law is encapsulated as hereafter, where there is no employer under Section 2 (g); no workman under section 2(s); no industrial dispute in existence either under Section 2A or under Section 2 (k) of the Act; no reference under Section 10(1)(c); no retrenchment under 2 (oo); no breach of Section 25F; no retrenchment compensation is payable for lack of the above conditions precedent available on record. Resultantly, no compensation in lieu of reinstatement is grantable; no relief whatsoever is admissible under the Act. The industrial formula in its statutory and component units as above fails as the jurisdictional facts required to ignite the jurisdiction of the industrial adjudicator are missing and are not proved to exist on the record of this case. The labour court misled itself in awarding compensation but the State has not challenged the award on the moot point of compensation and therefore with these words I would leave the matter at rest where it stands as there is no occasion to set aside the award in toto when the monetary part is not litigated by the State and is final against it.

23. In the case in hand, the petitioner has failed to prove that he was engaged by the respondent as beldar on daily wage basis and thereby has failed to prove relationship of employer and employee between the parties. Thus in view of law laid down by our Hon'ble High Court and Hon'ble High Court of Punjab and Haryana, in aforesaid cases, the petitioner is not entitled to any relief. Hence both these issues are decided in favour of the respondent and are answered in affirmative.

Issue No. 3

24. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Relief

25. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

26. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 457/2016

Date of Institution : 20.8.2016

Date of Decision : 09.4.2024

Shri Beli Ram s/o Shri Hari Singh, r/o Village Dellu, P.O. Tarella, Tehsil Churah, District
Chamba, H.P.*Petitioner.*

Versus

The Executive Engineer, HPPWD Division, Killar, Tehsil Pangi, District Chamba, H.P.
....*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Ms Malhotra Bhavna Jyoti, Ld. Adv.

For the respondent : Sh. Jitender Kumar, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether alleged termination of services of Sh. Beli Ram S/O Sh. Hari Singh Village Dellu P.O. Tarella, Tehsil Churah Distt. Chamba, H.P. during 9/2004 by the Executive Engineer, HPPWD Division, Killar (Pangi) Tehsil Pangi District Chamba, H.P. who had worked as beldar on daily wages basis only for 170 days during the year 7/2002 to 9/2004 and has raised his industrial dispute vide demand notice dated 29/4/2015 after more than 11 years, allegedly without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period during the years mentioned as above and delay of more than 11 years in raising the industrial dispute, what amount of back wages, seniority, pas service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as beldar by the respondent in HPPWD Sub Division Shor in July, 2002 and he continuously worked with the respondent without any break. The respondent has orally terminated his services in September, 2004 without serving any notice upon him. Thereafter, he made several requests, but he was not re-engaged despite availability of work and funds. The persons junior to him were retained in service by the respondent while terminating his services. The respondent engaged Gautam Singh on 7.9.2007, Dev Raj on 20.7.2007 and Sham Lal on 2.6.2006 after termination of his services. The respondent has finally refused to re-engage him in first week of March, 2015, therefore, he served demand notice upon the respondent in April 2015. The respondent has terminated his services in violation of Sections 25-F, 25-G and 25-H of the I.D.Act. He has completed the services of 160 days continuously in the tribal area of Pangi during the period of 12 calendar months preceding the date of termination of his services and the breaks, if any, were owing to inclement weather and as such he entitled for re-engagement in service with all consequential benefits. Hence this petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability and delay and laches. On merits, it has been averred that the petitioner was engaged as daily wager in the year 2001 and he worked intermittently upto 2004 with the department and left the job on his own sweet will. No fictional breaks were given in his services. The petitioner has not completed 160 days in any calendar year as required for tribal area of Tehsil Pangi which is evident from the mandays chart filed with the reply. The petitioner had worked only in the month of September in the year 2004. The services of the petitioner were not terminated. Since the petitioner left the job on his own, there was no question of serving one month's notice upon the petitioner or pay wages in lieu of notice period to him. The persons namely Gautam Singh and Sham Lal mentioned in para No.4 of the petitioner, were re-engaged on compassionate ground (as harness cases) and Dev Raj was engaged as per directions of this court. After denying other allegations, it has been prayed that the petition be dismissed.

5. On the pleadings of the parties, following issues were framed on 05.3.2020:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent during September, 2004, as alleged? If so, its effect? ..*OPP*.
2. Whether the claim petition is not maintainable, as alleged? ..*OPR*.
3. Whether the claim petition is bad on account of delay and laches, as alleged? ..*OPR*.

Relief.

6. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed evidence.

7. On the other hand Executive Engineer Joginder Kumar, HPPWD Killar appeared as RW1 and closed the evidence.

8. I have heard the Learned Counsel for the petitioner as well as learned ADA for the respondent and gone through the case file carefully.

9. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No. 2 : None

Relief : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 & 3

10. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

11. The petitioner has claimed that he was engaged as beldar on daily wage basis by the respondent in July, 2002 and he continuously worked with the respondent till September, 2004 and the respondent terminated his services without serving any notice upon him in September, 2004.

12. On the other hand, the respondent has claimed that respondent was engaged as daily wage beldar in the year 2001 and he worked intermittently with the department till 2004 and his services were not terminated by the department but he had left job on his own and no fictional breaks were given in his service.

13. As per mandays chart Ext.RW1/B placed on record by the respondent, the petitioner had worked with the respondent from July, 2001 to September 2004. The petitioner had worked for 81 days in the year 2001, 41 days in 2003 and 61 days in the year 2004.

14. It is evident from the perusal of mandays chart Ext.RW1/B that the petitioner had not worked for 160 days during the period of 12 months preceding the date of alleged termination of his services. The petitioner had only worked for 81 days from July to October in the year 2001, 41 in May and June, 2003, 61 days in August and September, 2004 and he had not worked even for a single day in the year 2002 and thus he had worked for 61 days only during the period of 12 calendar months preceding the date of alleged termination of his services in the month of September, 2004 by the respondent.

15. The petitioner Beli Ram, in substantiation of his claim, appeared as PW1 and has filed affidavit Ext. PW1/A in examination-in-chief in which he has affirmed the averments made in the petition on oath. In his cross-examination, he has admitted that he was engaged in July, 2001 and he worked for 81 days in the year 2001. He, however, has denied that he used to report for work and used to leave the work on his own. He has also denied that he never completed 160 days in any calendar year. He has admitted that presence of the workmen, who used to attend the work, was marked by the department. He has denied that no workmen junior to him were retained by the department. He has admitted that he has filed the case after 11 years

16. On the other hand, Er. Joginder Kumar appeared as RW1 and has filed affidavit Ext. RW1/A in examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered mandays chart of petitioner Ext. RW1/B in evidence. In his cross-examination, he has denied that the petitioner had worked without interruption from year 2001 to 2004 and that the services of the petitioner were terminated by the department without following the procedure. He has denied that Gautam Singh, Devi Ram, Sham Lal etc. were junior to the petitioner and they were retained and added that the services of the petitioner were not terminated but he had left the work. No notice was issued to the petitioner for joining duty. No explanation was called. He has not brought the seniority list of daily wager nor the same was available in their office.

17. It is evident from the resume of the evidence of both the parties discussed supra that the petitioner, except his bald statement, has not led any cogent evidence on record to prove that he had

worked continuously from the year 2001 to 2004 with the respondent or any fictional breaks were given in his services by the respondent and therefore in the absence of any cogent evidence having been led by the petitioner, the period shown in the mandays chart Ext. RW1/B has to be accepted to be correct. Hence in view of evidence of Joginder Kumar RW1 and mandays chart Ext. RW1/B, it is established on record that the petitioner had worked with the respondent from June, 2001 to September, 2004 and he has worked for 81 days in the year 2001, 41 days in the year 2003 and he had worked for 61 days in the year 2004. The petitioner had not worked for a single day in the year 2002 and thus the petitioner has failed to prove that he had continuously worked with the respondent from 2001 to 2004 as claimed by him.

18. The petitioner has alleged that the respondent verbally terminated his services without any reason and without issuing any notice to him in the month of September, 2004 and thereafter, he made several requests to re-engage him, but he was not re-engaged despite availability of work and funds.

19. On the other hand, the respondent has come up with the plea that the petitioner himself left the work at his own sweet will. The respondent thus has come with the plea of abandonment of work by the petitioner.

20. Hon'ble Supreme Court in **State of Haryana v. Om Prakash & Anr., 1998 8 SCC 733** has held that "Retrenchment" within the meaning of Section 2 (00) means termination by the employer of the service of the workman for any reason whatsoever. Therefore, it contemplates an act on the part of the employer which puts an end to service to fall within the definition of the expression "retrenchment" in Section 2 (00) of the Act, but if the workman ceased to report for duty and straightaway proceeded to invoke the provisions of the Act such case does not fall within the meaning of Section 2 (00) of the Act. It was held as under:

[3] Interim stay against the impugned award was granted on condition that the amount of back wages is deposited within 15 days. That condition has been satisfied. The High court, in our view, was wrong in summarily rejecting the petition filed under Articles 226/227 of the Constitution because this, in our view, was a fit case where the jurisdiction was erroneously exercised by the Labour court. The admitted facts show that after the first respondent was appointed with effect from 10/8/1985, he worked up to 30/6/1986 and thereafter ceased to report for work. The employer has not taken any step to terminate his service. He being a Daily- rated Workman himself chose to remain absent and it was after a period of almost three years that he raised a demand and the same came to be referred to the Industrial tribunal-cum-Labour court. The second question is whether there was a violation of Section 25-F of the Act. The authority below has come to the conclusion that he had worked for a period from 10-8-1985 to 30-6-1986 which would be less than one year. Therefore, the authority was wrong in concluding that he had worked for 240 days during 12 months immediately preceding the date of cessation of work. Besides no information was laid before the authority as to how many days during that period he had worked for, but in any case, he had not worked for 12 calendar months. There is also no evidence that he had worked for 240 days to satisfy section 25-B of the Act. Therefore, the authority was wrong in coming to the conclusion that there was a violation of Section 25-F of the Act besides, as stated earlier, he himself voluntarily ceased to report for duty and there was no act on the part of the employer nor is there anything on record to suggest that the employer had refused work to him. Retrenchment within the meaning of Section 2 (00) means termination by the employer of the service of the workman for any reason whatsoever. Therefore, it contemplates an act on the part of the employer which puts an end to service to fall within the definition of the expression "retrenchment" in Section 2 (00) of the Act. There was nothing of the sort in the instant case. It was the workman who ceased to report for duty

and even after he ceased to report for duty, it is not his case that at any point of time he reported for duty and he was refused work. He straightaway proceeded to invoke the provisions of the Act and, therefore, this is a case in which the employer has done nothing whatsoever to put an end to his employment and hence the case does not fall within the meaning of Section 2 (00) of the Act. Therefore, the case does not attract section 2 (00), nor does it satisfy the requirements of Section 25-F.

21. Our own Hon'ble High Court while relying upon the aforesaid judgment and various other judgments of Hon'ble Supreme Court in **Sunil Kumar Negi vs. State of H.P. and Ors., 2014 Law Suit(HP) 969** has held that the absence of the employee for a very long period give rise to an inference of voluntarily abandonment of service. It was held as under:—

[11] I am afraid I cannot agree to such submission as the absence of the petitioner is for a very long period giving rise to an inference of voluntarily abandonment of service. The abandonment and relinquishment of service is always a question of intention and in this case it is established on record that petitioner had voluntarily abandoned the service.

[12] In Vijay S. Sathaye vs. Indian Airlines Limited and others, 2013 10 SCC 253, the Hon'ble Supreme Court has considered the entire aspects in the following terms:—

"12. It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntarily abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.

13. In M/s. Jeewanlal (1929) Ltd., Calcutta v. Its Workmen, 1961 AIR(SC) 1567 this Court held as under:

"6.....there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee."

(See also: Shahoodul Haque v. The Registrar, Co-operative Societies, Bihar & Anr., 1974 AIR(SC) 1896.

14. For the purpose of termination, there has to be positive action on the part of the employer while abandonment of service is a consequence of unilateral action on behalf of the employee and the employer has no role in it. Such an act cannot be termed as 'retrenchment' from service.

(See: State of Haryana v. Om Prakash & Anr., 1998 8 SCC 733).

15. In Buckingham and Carnatic Co. Ltd. v. Venkatiah & Anr., 1964 AIR(SC) 1272 while dealing with a similar case, this Court observed :

"5 .Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf."

A similar view has been reiterated in *G.T. Lad & Ors. v. Chemicals and Fibres India Ltd.*, 1979 AIR(SC) 582

16. In *Syndicate Bank v. General Secretary, Syndicate Bank Staff Association & Anr.*, 2000 AIR(SC) 2198 and *Aligarh Muslim University & Ors. v. Mansoor Ali Khan*, 2000 AIR(SC) 2783 this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he should be treated to have resigned and ceases to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in *V.C. Banaras Hindu University & Ors. v. Shrikant*, 2006 AIR(SC) 2304, *Chief Engineer (Construction) v. Keshava Rao (dead) by Lrs.*, 2005 11 SCC 229; and *Regional Manager, Bank of Baroda v. Anita Nandrajog*, 2009 9 SCC 462."

[13] Thus taking into consideration the aforesaid exposition of law coupled with the facts proved on record to the effect that petitioner after having joined as a supervisor with respondent No. 3 company on 7.9.2007 did not report for duty upto 18.9.2007 and thereafter reported for duty on 19.9.2007 for a very short duration and thereafter again absented himself and did not resume duty.

22. In the case in hand, the petitioner, as has been observed above, had worked with the respondent for 181 days only from July, 2001 to September, 2004 and thereafter he never reported for duty. He has stated that he made several requests to re-engage him, but he was not re-engaged despite availability of work and funds, however, no cogent evidence has been led on record by the petitioner to prove that after his alleged termination in September, 2004, he ever reported for duty or approached the respondent to re-engage him before issuing demand notice dated 29.04.2015. There is nothing in the evidence of Er. Joginder Kumar RW1 from which it could be inferred that the petitioner ever reported for duty or approached the respondent to re-engage him before issuing demand notice dated 29.04.2015 or that the respondent department terminated the services of the petitioner. Hence, it is established on record that the petitioner never reported for duty or approached the respondent for engaging him after September, 2004 and straightaway issued demand notice on 29.04.2015, therefore, this is a case in which the employer has done nothing whatsoever to put an end to the services of the petitioner; rather in view of the law laid down by Hon'ble Supreme Court and Hon'ble High Court in above said cases, the absence of the petitioner for a very long period and not reporting for duty after September, 2004 and straightaway issuing demand notice on 29.04.2015, amounts to voluntarily abandonment of service. Consequently, the plea of respondent that the petitioner himself left the work has to be accepted to be correct. Hence, it can safely be held that the services of the petitioner were not terminated by the respondent; rather he himself abandoned the service.

23. This apart, It has not been disputed by the respondent that a workman serving in tribal area of Pangi shall be deemed to be in continuous service within the meaning of Section 25-B of the I.D. Act if he has actually worked for 160 days instead of 240 days in a calendar year during the period of 12 calendar months preceding the date of retrenchment with reference to which the calculation is to be made. Since the petitioner, as per mandays chart Ext. RW1/B, had not worked for 160 days under the respondent during the period of 12 calendar months preceding the date when his services were allegedly terminated, therefore, the petitioner cannot be held to be in continuous service as per the provisions of Section 25-B of the I.D. Act.

24. As per the provisions of Section 25-F of the I.D. Act, the services of a workman, who has been in continuous service, can only be terminated after issuance of one month's notice

indicating the reasons for termination or payment of one month's wages in lieu of notice period and retrenchment compensation. However, in the case in hand, the petitioner had not worked for 160 days in any calendar year and/or during the period of 12 months preceding the date of alleged termination of his services and therefore he was not in continuous service under the respondent and therefore, even if for the sake of arguments it is assumed that the services of the petitioner were terminated, the respondent was not required to serve notice under Section 25-F of the I.D. Act upon the petitioner. Hence violation of Section 25-F is not proved.

25. The petitioner has also alleged the persons junior to him were retained by the respondent and that Gautam Singh was engaged on 7.9.2007, Dev Raj was engaged on 20.7.2007 and Sham Lal was engaged on 2.6.2006 by the respondent after termination of his services without giving opportunity of re-employment to him and thereby violated the provisions of Sections 25-G and 25-H of the I.D. Act.

26. On the other hand, the respondent has denied to have retained junior to the petitioner in service. So far as engagement of fresh hands is concerned, the respondent has admitted to have engaged them as alleged by the petitioner but the respondent has pleaded that Gautam and Sham Lal were engaged on compassionate ground (as harness cases) and Dev Raj was engaged as per order of this court and however, Er. Joginder Kumar RW1, in his examination-in-chief, has not uttered even a single word with regard to the appointment of Gautam Singh, Dev Raj and Sham Lal. He has simply stated that no junior has been engaged in place of the petitioner.

27. Thus, it is evident from the pleadings as well as evidence of both the parties that the petitioner has neither pleaded nor led any cogent evidence on record to prove that any workman junior to him was retained in service by the respondent while terminating his services and thus the petitioner has failed to prove the violation of Section 25-G of the I.D. Act.

28. However, the respondent has admitted that Gautam Singh was engaged on 7.9.2007, Dev Raj was engaged on 20.7.2007 and Sham Lal was engaged on 2.6.2006. The services of the petitioner were allegedly terminated in September, 2004 and all the abovesaid workmen were engaged after September, 2004. The respondent has taken a plea that Gautam Singh and Sham Lal were engaged on compassionate ground (as harness cases) and Dev Raj was engaged as per the orders of the court, however, the respondent has not produced any document on record to substantiate his such plea and therefore in the absence of any evidence, the plea of respondent that the aforesaid workmen were engaged on compassionate ground and/or as per orders of the court as claimed cannot be accepted. Hence it is established on record that the respondent had engaged fresh hands after September, 2004, however, the petitioner as has been observed above, has failed to prove that he was terminated by the respondent; rather it is established on record that he himself abandoned the service, therefore, the respondent cannot also be said to have engaged fresh hands in violation of 25-H of the I.D. Act. Hence violation of Sections 25-G and 25-H of the I.D. Act is also not proved.

29. So far as the question of delay and laches is concerned, the petitioner has raised industrial dispute by issuing demand notice after lapse of more than 11 years of alleged termination of his services in the month of August, 1998 and thus there is considerable delay in raising the industrial dispute and the claim is bad on account of delay and laches. However, Hon'ble High Court in **ROOP SINGH V/S EXECUTIVE ENGINEER, HPPWD 2019 (2) Shimla LC 645**, has held that no period of limitation is prescribed under the Industrial Disputes Act for raising dispute but if such a dispute is raised after a long period, it is to be seen whether such a dispute still exists and if the Court finds that the dispute still exists though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief and in such cases, it is open for the Court to either grant reinstatement with back wages or lesser back wages or grant

compensation instead of reinstatement. But in the case in hand, since the petitioner has failed to prove that the respondent had illegally terminated his services in contravention of the provisions of Sections 25-F, 25-G and 25-H of the I.D. Act, no relief can be granted to him. Hence, issue No.1 is decided against the petitioner and issue No. 3 is decided in favour of the respondent and are answered as such.

Issue No. 2

30. In view of returned findings of issue no. 1, the petition is not maintainable. Hence this issue is decided in favour the respondent and is answered in affirmative.

Relief

31. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

32. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra At Dharamshala (H.P.)**

Ref. No. : 50/2017

Date of Institution : 24.1.2017

Date of Decision : 09.4.2024

Smt. Roop Dei w/o Shri Nekh Ram, r/o Village Tikri Luj, Tehsil Pangi, District Chamba,
H.P.*Petitioner.*

Versus

The Executive Engineer, HPPWD &IPH Division, Pangi at Killar, Tehsil Pangi, District
Chamba, H.P.*Respondent.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P. Bhardwaj, Ld. Adv.

For the respondent : Sh. Jitender Kumar, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether alleged termination of services of Smt. Room Dei W/O Shri Nekh Ram Village Tikri Luj Tehsil Pangi, Distt. Chamba, H.P. from October, 2003 by the Executive Engineer, HPPWD Division, Pangi at Killar Tehsil Pangi District Chamba, H.P. who had worked as beldar on daily wages basis only for 711 days during the year 1994 to 1997 and 2001 to 2003 and has raised her industrial dispute vide demand notice dated 23/12/2011 after more than 8 years, without complying with the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, keeping in view of working period as mentioned above and delay of more than 8 years in raising the industrial dispute, what amount of back wages, seniority, past service benefits and compensation the above ex-worker is entitled to fro the above employer/management?”

2. After receipt of reference dated 30th December, 2016, a corrigendum dated 17 May, 2022 was received from the appropriate Government which reads as under:—

“Whereas, a reference has been made to the Ld. Labour Court-cum-Industrial Tribunal, Kangra at Dharamshala, District Kangra, H.P. vide notification of even no. dated 20-12-2016 for legal adjudication. However, inadvertently the correct facts could not be mentioned about the name of the workman in the said notification. Therefore, the name of the workman may be read as “Roop Dei” instead of “Room Dei” as alleged by workman”.

3. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

4. Briefly stated, the case of the petitioner is that she was engaged as beldar by the respondent in year 1991 and she worked with the respondent with intermittent breaks till October, 2003. The respondent has given breaks in her service from time to time so that she could not complete service of 160 days in each calendar year for the purpose of regularization of her services whereas the workmen junior to her were retained continuously on muster roll basis. The State Government has framed the policy for regularization of the daily wage workers which requires a workman to work for minimum 160 days in each calendar year in tribal area. The respondent department utilized her service in HPPWD as well as I&PH department. Her services were orally terminated by the respondent without giving one month's notice in writing indicating the reason for retrenchment and without payment of compensation and as such the breaks may be counted as continuous service for the purpose of calculating 160 days as per the provisions of Section 25-B of the I.D. Act. She belongs to a very remote corner of District Chamba and the State has not established any Labour Office or office of any other agency which could adjudicate the cases of the workman under I.D.Act at Pangi. She tried her level best to take up the matter with the respondent department time and again verbally and some time through labour unions but to no avail. The persons junior to her were retained in service continuously without any breaks while terminating her service and therefore the principle of 'last come first go' has been violated by the respondent. The workmen whose services were illegally terminated by the respondent with her, have been re-engaged by the respondent and she was not given an opportunity of re-employment; rather preference was given to junior workers. The respondent department has engaged and retained the workmen junior to her namely S/Sh. Suraj Ram, Chuku Ram, Budhi Ram, Dev Raj and Bameshwar Dutt in service continuously and they are still working in the department continuously. Had her services not terminated illegally and fictional breaks were not given in her service, she would have completed 8 years continuous service in the year 1999 and would have become entitled for regularization of service. The respondent had violated the provisions of Sections 25-F, 25-G and 25-H of the I.D. Act. Hence this petition.

5. The petition has been resisted by the respondent by filing of reply taking preliminary objections qua maintainability, suppression of true and material facts and delay and laches. On merits, the factum of engagement of the petitioner as beldar has not been denied, however, it has been averred that petitioner was engaged as daily wage beldar in the year 1994 and she worked intermittently with the department till 2003 and she left the job at her own sweet will. It has been denied that the petitioner worked for more than 160 days in each calendar year. It has also been denied that the fictional breaks were given in service of the petitioner and the workmen junior to the petitioner were retained by the department. It has been averred that the petitioner has not completed 160 days in each calendar year as required for tribal area of Tehsil Pangi which is clear from the mandays chart and as such there was no necessity to serve notice upon the petitioner. It has been admitted that State Government has framed policy for regularization of daily wage worker which requires a workman to work for 160 days in each calendar year, however, the rest of the allegations have been denied. It has been denied that the petitioner had approached the department time and again. It has been averred that no junior to the petitioner were retained in service nor the principle of 'last come first go' was violated. The workmen mentioned by the petitioner were re-engaged as per the direction of this court. The services of the petitioner were not terminated but she has abandoned the service. After denying other allegations, it has been prayed that the petition be dismissed.

6. On the pleadings of the parties, following issues were framed on 29.11.2022:—

1. Whether the termination of the services of the petitioner during October, 2003 by the respondent is/was illegal and unjustified as alleged? ..*OPP.*
2. Whether the claim petition is not maintainable, as alleged? ..*OPR.*
3. Whether the claim petition is bad on account of delay and laches as alleged? ..*OPR.*

Relief.

7. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

8. On the other hand the respondent has examined Engineer Joginder Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the petitioner as well as learned Dy. D.A. for the respondent and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, the findings on the above issues are as under:—

Issue No.1 : No

Issue No. 2 : Yes

Issue No. 3 : Yes

Relief : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS**Issues No. 1 & 3**

11. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. It has not been disputed by the respondent that the petitioner was engaged as beldar by the respondent department.

13. The petitioner has claimed that she was engaged as beldar on daily wage basis by the respondent in the year 1991 and she intermittently worked with the respondent till October, 2003 and fictional breaks were given in her service by the respondent so that she could not complete 160 days in each calendar year for the purpose of regularization of her services and terminated her services without serving any notice upon her and without payment of retrenchment compensation to her.

14. On the other hand, the respondent has claimed that petitioner was engaged as daily wage beldar in the year 1994 and she worked intermittently with the department till 2003 and no fictional breaks were given in her service and her services were not terminated by the department ; rather she abandoned the service on her own.

15. As per mandays chart Ext.R-1 placed on record by the respondent, the petitioner had worked with the respondent from October, 1994 till October, 2003. The petitioner had worked for 58 days in the year 1994, 47 days in the year 1995, 174 days in the year 1996, 148 days in the year 1997, 57 days in the year 2001, 110 days in the year 2002 and 117 days in the year 2003. Thus, as per mandays chart Ext.R-1, the petitioner has worked for 711 days from October, 1994 to October, 2003 and she has worked for 117 during the period of 12 months preceding the date of alleged termination of her services in October,2003.

16. The petitioner has claimed that the respondent had given fictional breaks in his services and illegally terminated her services in October,2003.

17. The Hon'ble High Court in **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir**, in paras Nos. 6 to 9 has held as under:—

“6. It would be noticed that right from the years 1999 to 2007, the respondent did work but that was only intermittent and it was after the year 2008 upto 2010 that the respondent worked for more than 240 days but abruptly in the year, 2011, the respondent only put in 156 ½ days in service. There is nothing on record to indicate that the respondent during the relevant time had questioned the action of the petitioners on the ground that he was being given fictional/artificial breaks so as to deny the claim of the respondent for regularization, yet, the Presiding Officer has concluded that the respondent had deliberately been granted fictional/artificial breaks and the only reason for arriving at such conclusion is contained in para-26 of the award, which reads thus:—

"26. The seniority list, copy of which has been exhibited and proved on record by the petitioner as Ex.PW2/A through the statement of PW2 Shri Mukesh Kumar posted as Junior Engineer in HPPWD Division Baijnath, reveals that workmen Shri Ghanshyam and Shri Narayan Dass both were engaged in the year 2001 and since then they were being offered muster rolls for a full month uptil the year 2007. Indisputably, both the above named workmen are shown to be employed in HPPWD Division Baijnath. There is no explanation on the part of the respondent as to why the petitioner, who admittedly was senior to the

aforementioned workmen, was not granted the muster rolls for the entire month. Be it recorded at the risk of repetition that a plea was taken by the respondent that the petitioner was being engaged as per the availability of work and funds. If that be so, then why the respondent had been providing work for the entire month upto the year 2007 to the aforesaid workmen, who both were also working in the same Division? The reasons to that effect being obscure go to show that the story put forth by the respondent that the work was being provided to the petitioner as per the availability of work and funds is incorrect. It, thus, only goes to show that the respondent had either been resorting to favouritism or had been acting in a partisan manner to one set of workmen or was resorting to such process with an oblique motive of depriving the petitioner of the status and privileges of permanent workman, entitling him to regularization as per the policy of the State Government from time to time. It appears to be an act of gross discrimination which is ex- facie borne out from the record."

7. As observed above, the onus to prove the fact of fictional/artificial breaks was solely upon the respondent and merely because some other workmen who may have been engaged after the engagement of the respondent were offered muster rolls for the full month after the year, 2007 could not lead to any inference that the respondent had either been discriminated or that fictional/artificial breaks had been granted to the respondent so as to defeat his claim for regularization. The plea is otherwise negated from the man-days chart (supra), which goes to indicate that the respondent had been permitted to work for 364 days in the year, 2008, 350 days in the year, 2009, 302 days in 2010, 366 days in 2012, 365 days in 2013, 363 days in 2014 and 2015 and 362 days in 2016, meaning thereby, that the respondent had been engaged throughout the year.

8. The conclusion or rather inference drawn by the learned Presiding Judge is based only on hypothesis without there being any proof whatsoever either in the pleadings or in the evidence so led.

9. Obviously, in such circumstances, the petition is allowed and the impugned award dated 29.08.2019, passed by the learned Labour Court-cum-Industrial Tribunal is not sustainable in the eyes of law and the same is accordingly set aside, leaving the parties to bear their own costs.

18. Thus in view of law laid down by the Hon'ble High Court in the above said case, the onus to prove the fact that the respondent has given fictional/artificial breaks in his service is upon the petitioner.

19. The petitioner Roop Dei appeared as PW1 and has filed affidavit in her examination-in-chief wherein she has affirmed all the averments made in petition on oath. She has also tendered mandays chart Ext. P1, copy of seniority lists Ext. P2 to Ext. P7, mandays chart Ext. P8 to Ext. P9 in evidence. She has stated that she intermittently worked with the respondent from the year 1991 to 2003 and that the respondent has given fictional breaks in her service, however, she has not produced any cogent evidence on record to prove the fact that she had worked from 1991 to 2003 and that the respondent has given fictional breaks in her service.

20. On the other hand, Executive Engineer Dinesh Kumar (RW1), in his examination-in-chief, has filed affidavit Ext. RW1/A wherein he affirmed the averments made the reply on oath. In his cross-examination he has admitted that the petitioner worked with the department from 1994 to 2003. He, however, has admitted that no notice was served upon the petitioner. He has feigned ignorance that the petitioner continuously approached the department to re-engage her. He has denied that they have not depicted correct mandays of the petitioner in the mandays chart Ext.R-

1. The mandays chart has been prepared on the basis of record. He has admitted that original record has not been produced on record.

21. Thus, it is evident from the resume of the evidence of both the parties discussed supra that the petitioner has not led cogent evidence on record to prove that she had worked with the respondent from 1991 to 2003 and that the respondent has given fictional breaks in her service. It was suggested to Executive Engineer Dinesh Kumar (RW1) that the petitioner worked with the department from 1994 to 2003 which was admitted by him which in turn proves that the petitioner was engaged in the year 1994 as recorded in mandays Ext. R-1 and claimed by the respondent.

22. There is nothing in the evidence of Executive Engineer Dinesh Kumar (RW1) from which it could be inferred that the respondent department had given fictional breaks in service of the petitioner so that she might not complete 160 days in any calendar year. There is also nothing in the evidence of the Executive Engineer Dinesh Kumar (RW1) from which it could be inferred that the mandays of the petitioner are wrongly recorded in the mandays chart Ext. R-1, therefore, in the absence of any cogent evidence having been led by the petitioner to prove that she had worked with respondent from 1991 to 2003 and that the respondent had given fictional breaks in her service, the evidence of RW1 that the petitioner intermittently worked from 1994 to 2003 and the period shown in the mandays chart R-1, have to be accepted to be correct. Hence it can safely be concluded that the petitioner has failed to prove that the respondent had given fictional breaks in her services from time to time from 1994 to October, 2003 so that she might not complete service of 160 days in each calendar year.

23. The petitioner has alleged that the respondent terminated her services in the October, 2003 without issuing any notice to her and thereafter, she approached the respondent time and again to re-engage her, but the department had not paid any heed to her requests.

24. On the other hand, the respondent has come up with the plea that the petitioner herself left the work at her own sweet will and that the petitioner has not completed 160 days in each calendar year as required for tribal area of Tehsil Pangi and as such there was no necessity to serve notice upon the petitioner. The respondent thus has come with the plea of abandonment of service by the petitioner.

25. Hon'ble Supreme Court in **State of Haryana v. Om Prakash & Anr., 1998 8 SCC 733** has held that "Retrenchment" within the meaning of Section 2 (00) means termination by the employer of the service of the workman for any reason whatsoever. Therefore, it contemplates an act on the part of the employer which puts an end to service to fall within the definition of the expression "retrenchment" in Section 2 (00) of the Act, but if the workman ceased to report for duty and straightaway proceeded to invoke the provisions of the Act such case does not fall within the meaning of Section 2 (00) of the Act. It was held as under:

[3] Interim stay against the impugned award was granted on condition that the amount of back wages is deposited within 15 days. That condition has been satisfied. The High court, in our view, was wrong in summarily rejecting the petition filed under Articles 226/227 of the Constitution because this, in our view, was a fit case where the jurisdiction was erroneously exercised by the Labour court. The admitted facts show that after the first respondent was appointed with effect from 10/8/1985, he worked up to 30/6/1986 and thereafter ceased to report for work. The employer has not taken any step to terminate his service. He being a Daily-rated Workman himself chose to remain absent and it was after a period of almost three years that he raised a demand and the same came to be referred to the Industrial tribunal-cum-Labour court. The second question is whether there was a violation of Section 25-F of the Act. The authority below has come to the conclusion that he had

worked for a period from 10-8-1985 to 30-6-1986 which would be less than one year. Therefore, the authority was wrong in concluding that he had worked for 240 days during 12 months immediately preceding the date of cessation of work. Besides no information was laid before the authority as to how many days during that period he had worked for, but in any case, he had not worked for 12 calendar months. There is also no evidence that he had worked for 240 days to satisfy section 25-B of the Act. Therefore, the authority was wrong in coming to the conclusion that there was a violation of Section 25-F of the Act besides, as stated earlier, he himself voluntarily ceased to report for duty and there was no act on the part of the employer nor is there anything on record to suggest that the employer had refused work to him. Retrenchment within the meaning of Section 2 (00) means termination by the employer of the service of the workman for any reason whatsoever. Therefore, it contemplates an act on the part of the employer which puts an end to service to fall within the definition of the expression "retrenchment" in Section 2 (00) of the Act. There was nothing of the sort in the instant case. It was the workman who ceased to report for duty and even after he ceased to report for duty, it is not his case that at any point of time he reported for duty and he was refused work. He straightaway proceeded to invoke the provisions of the Act and, therefore, this is a case in which the employer has done nothing whatsoever to put an end to his employment and hence the case does not fall within the meaning of Section 2 (00) of the Act. Therefore, the case does not attract section 2 (00), nor does it satisfy the requirements of Section 25-F.

26. Our own Hon'ble High Court while relying upon the aforesaid judgment and various other judgments of Hon'ble Supreme Court in **Sunil Kumar Negi vs. State of H.P. and Ors., 2014 Law Suit(HP) 969** has held that the absence of the employee for a very long period give rise to an inference of voluntarily abandonment of service. It was held as under:—

[11] I am afraid I cannot agree to such submission as the absence of the petitioner is for a very long period giving rise to an inference of voluntarily abandonment of service. The abandonment and relinquishment of service is always a question of intention and in this case it is established on record that petitioner had voluntarily abandoned the service.

[12] In Vijay S. Sathaye vs. Indian Airlines Limited and others, 2013 10 SCC 253, the Hon'ble Supreme Court has considered the entire aspects in the following terms:-

"12. It is a settled law that an employee cannot be termed as a slave, he has a right to abandon the service any time voluntarily by submitting his resignation and alternatively, not joining the duty and remaining absent for long. Absence from duty in the beginning may be a misconduct but when absence is for a very long period, it may amount to voluntarily abandonment of service and in that eventuality, the bonds of service come to an end automatically without requiring any order to be passed by the employer.

13. In M/s. Jeewanlal (1929) Ltd., Calcutta v. Its Workmen, 1961 AIR(SC) 1567 this Court held as under:

"6.....there would be the class of cases where long unauthorised absence may reasonably give rise to an inference that such service is intended to be abandoned by the employee."

(See also: Shahoodul Haque v. The Registrar, Co-operative Societies, Bihar & Anr., 1974 AIR(SC) 1896.

14. For the purpose of termination, there has to be positive action on the part of the employer while abandonment of service is a consequence of unilateral action on behalf of the employee and the employer has no role in it. Such an act cannot be termed as 'retrenchment' from service.

(See: State of Haryana v. Om Prakash & Anr., 1998 8 SCC 733).

15. In Buckingham and Carnatic Co. Ltd. v. Venkatiah & Anr., 1964 AIR(SC) 1272 while dealing with a similar case, this Court observed :

"5 .Abandonment or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf."

A similar view has been reiterated in G.T. Lad & Ors. v. Chemicals and Fibres India Ltd., 1979 AIR(SC) 582

16. In Syndicate Bank v. General Secretary, Syndicate Bank Staff Association & Anr., 2000 AIR(SC) 2198 and Aligarh Muslim University & Ors. v. Mansoor Ali Khan, 2000 AIR(SC) 2783 this Court ruled that if a person is absent beyond the prescribed period for which leave of any kind can be granted, he should be treated to have resigned and ceases to be in service. In such a case, there is no need to hold an enquiry or to give any notice as it would amount to useless formalities. A similar view has been reiterated in V.C. Banaras Hindu University & Ors. v. Shrikant, 2006 AIR(SC) 2304, Chief Engineer (Construction) v. Keshava Rao (dead) by Lrs., 2005 11 SCC 229; and Regional Manager, Bank of Baroda v. Anita Nandrajog, 2009 9 SCC 462."

[13] Thus taking into consideration the aforesaid exposition of law coupled with the facts proved on record to the effect that petitioner after having joined as a supervisor with respondent No. 3 company on 7.9.2007 did not report for duty upto 18.9.2007 and thereafter reported for duty on 19.9.2007 for a very short duration and thereafter again absented himself and did not resume duty.

27. In the case in hand, the petitioner, as has been observed above, had intermittently worked with the respondent from July, 1994 to October, 2003 and thereafter she never reported for duty. She has stated that she approached the respondent time and again to re-engage her, but the department had not paid any heed to her requests, however, no cogent evidence has been led on record by the petitioner to prove that after her alleged termination in October, 2003, she ever reported for duty or approached the respondent to re-engage her before issuing demand notice on 23.12.2011. There is nothing in the evidence of Er. Dinesh Kumar RW1 from which it could be inferred that the petitioner ever reported for duty or approached the respondent to re-engage her before issuing demand notice dated 23.12.2011 or that the respondent department terminated the services of the petitioner. Hence, it is established on record that the petitioner never reported for duty or approached the respondent for engaging her after October, 2003 and straightaway issued demand notice on 23.11.2011, therefore, this is a case in which the employer has done nothing whatsoever to put an end to the services of the petitioner; rather in view of the law laid down by Hon'ble Supreme Court and Hon'ble High Court in above said cases, the absence of the petitioner for a very long period and not reporting for duty after October, 2003 and straightaway issuing demand notice on 23.11.2011, amounts to voluntarily abandonment of service. Consequently, the plea of respondent that the petitioner herself left the work has to be accepted to be correct. Hence, it can safely be held that the services of the petitioner were not terminated by the respondent; rather she herself abandoned the service.

28. This apart, it has not been disputed by the respondent that a workman serving in tribal area of Pangi shall be deemed to be in continuous service within the meaning of Section 25-B of the I.D. Act if he has actually worked for 160 days instead of 240 days in a calendar year during the period of 12 calendar months preceding the date of retrenchment with reference to which the calculation is to be made. Since the petitioner, as per mandays chart Ext. R-1 filed by the

respondent, had worked for 117 days with the respondent during the period of 12 calendar months preceding the date when her services allegedly were terminated, the petitioner can not be held to be in continuous service as per the provisions of Section 25-B of the I.D.Act.

29. As per the provisions of Section 25-F of the I.D.Act, the services of a workman, who has been in continuous service, can only be terminated after issuance of one month's notice indicating the reasons for termination or payment of one month's wages in lieu of notice period and retrenchment compensation. However, in the case in hand, the petitioner had not worked for 160 days during the period of 12 months preceding the date of alleged termination of her services and therefore she was not in continuous service under the respondent and therefore, even if for the sake of arguments it is assumed that the services of the petitioner were terminated, the respondent was not required to serve notice under Section 25-F of the I.D. Act upon the petitioner. Hence violation of Section 25-F is not proved.

30. The petitioner has also alleged the violation of Sections 25-G and 25-H of the I.D. Act. The petitioner Roop Dei (PW1) has stated that the respondent retained workmen junior to her while terminating her services and has violated the principle of 'last come first go'. She has further stated that the workmen junior to her, whose services were terminated by the respondent department with her, have been re-engaged by the respondent.

31. On the other hand Er. Dinesh Kumar, RW1 has stated that workmen junior to the petitioner were not retained by the department nor any person was engaged by them and there is no violation of the provisions of Sections 25-G and 25-H of the I.D.Act.

32. The petitioner has filed the copy of mandays chart of four workmen namely Chhin Dei, Bhag Dei, Sur Dei and Shyami Ext. P-1 and copy of recommendations of the screening committee for regularization of daily wages worker Ext.P-2 and Ext.P-3 on record. The perusal of the mandays chart Ext.P-1 would show that Chhin Dei was engaged in the year 1999 and remaining workmen were engaged as beldars in the year 2000 and they were continuously retained till the year 2009 for which period mandays chart has been issued. Perusal of recommendation for regularization Ext.P-2 would show Dev Raj and Gautam were engaged in the year 2007 and they were recommended for regularization after completion of seven years of service on 31.3.2015. Perusal of recommendation for regularization Ext.P-3 would show Tek Chand was engaged in the year 1999, Baldev was engaged in the year 1995, Amar Nath and Balak Ram were engaged in the year 1996 and Shyam Lal was engaged in the year 1998 and they were recommended for regularization after completion of eight years or more service on 31.3.2008. She has also filed mandays Ext.P-4 to Ext.P-9 of other workmen engaged after 1997. The petitioner was engaged in the year 1994 and she worked upto October, 2003 and the workers/beldars mentioned in Ext. P1 to Ext.P-9 were engaged after 1994 and thus they were junior to the petitioner and one workman namely Sham Lal mentioned at Sr. No.12 in Ext.P-4 was engaged in 2006 after October, 2003, however, the petitioner, as has been observed above, has failed to prove that she was terminated by the respondent; rather it is established on record that he herself abandoned the service, therefore, the respondent cannot also be said to have retained junior workmen and engaged fresh hands in violation of Sections 25-G and 25-H of the I.D.Act. Hence violation of Sections 25-G and 25-H of the I.D.Act is also not proved.

33. So far as the question of delay and laches is concerned, the petitioner has raised industrial dispute by issuing demand notice after lapse of more than 8 years of alleged termination of her services in the month of October, 2003 and thus there is considerable delay in raising the industrial dispute and the claim is bad on account of delay and laches. However, Hon'ble High Court in **ROOP SINGH V/S EXECUTIVE ENGINEER, HPPWD 2019 (2) Shimla LC 645**, has held that no period of limitation is prescribed under the Industrial Disputes Act for raising dispute but if such a dispute is raised after a long period, it is to be seen whether such a dispute still exists

and if the Court finds that the dispute still exists though raised belatedly, it is always permissible for the Court to take the aspect of delay into consideration and mould the relief and in such cases, it is open for the Court to either grant reinstatement with back wages or lesser back wages or grant compensation instead of reinstatement. But in the case in hand, since the petitioner has failed to prove that the respondent had illegally terminated her services in contravention of the provisions of Sections 25-F, 25-G and 25-H of the I.D. Act, no relief can be granted to her. Hence, issue No.1 is decided against the petitioner and issue No. 3 is decided in favour of the respondent and are answered as such.

Issue No. 2

34. In view of returned findings of issue no. 1, the petition is not maintainable. Hence this issue is decided in favour the respondent and is answered in affirmative.

Relief

35. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

36. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 9th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 17/2020

Date of Institution : 23.1.2020

Date of Decision : 10.04.2024

Shri Vijay Kumar s/o Shri Jai Dayal, r/o Village Nuwala, P.O. Baat, Tehsil & District
Chamba, H.P.*Petitioner* .

Versus

1. The Principal, Pt. JLNMC & Hospital Chamba, Tehsil and District Chamba, H.P.
2. Managing Director, IL&FS Human Resources Ltd. Pt. JLNMC/26 Bhasula House, Om
Vihar, 34 New Delhi-110059.*Respondents*.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner	:	Sh. S.K. Thakur, Ld. Adv.
For the respondent No.1	:	Sh. Jitender Kumar, Ld. ADA
For the respondent No.2	:	Ms. Himakshi Gautam, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Vijay Kumar S/O Shri Jai Dayal, R/O Village Nuwala, P.O. Baat, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL&FS Human Resources Limited, Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority and past service benefits the above worker is entitled to from the above employers?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage gardener by the respondent No.2 in Pt. Jawahar Lal Nehru Govt. Medical College Chamba (hereinafter in short is referred to as Medical College Chamba) on 20.3.2018 and he worked upto 30.5.2019. His services were terminated on 1.6.2019 without following the provisions of the I.D. Act and without giving prior notice to him. After termination of his services, he approached the respondent several times to re-engage him but the respondent did not pay any heed to his requests. Sufficient work was available with the respondent. The respondent terminated his services in violation of provisions of Section 25 of the I.D. Act. It has thus been prayed that his termination be set aside and the respondent department be directed to re-engage him in the same capacity. Hence this petition.

4. The petition has been resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has been admitted that the petitioner was working as gardener in the Medical College Chamba and he was appointed by the respondent No.2. It has been averred that when the Government permitted to run Medical College at Chamba in the name of Pandit Jawahar Lal Nehru Medical College (PJLNMC) & Hospital, Chamba, they required staff for smooth working of institution as per sanctioned letter from the Special Secretary (Health), to the Government of H.P. Thereafter, they have decided to hire the staff from the firm/company, which used to supply manpower on outsource basis. After due process, tender was awarded to respondent No.2 to provide manpower as per requirement of the institution. The petitioner was not engaged by them but by the respondent No.2. It has been admitted that the services of the petitioner were terminated w.e.f. 1.6.2019. It has been averred that the then Principal of JLNGMC & Hospital Chamba held meeting on 1.12.2018 for reorganization of outsourcing security service and sanitation service in Medical College Chamba. After discussion, the committee decided to hire the staff on outsource basis as per requirement of the work. The Principal of Medical College Chamba accordingly directed the respondent No.2 to provide manpower as per list sanctioned by the joint committee on

1.12.2018. Thereafter, the respondent No.2, provided the manpower as per list and respondent No.1 has nothing to do with its internal matter. The petitioner was neither their employee nor had he entered into any contract with the respondent No.1, so question of issuance of prior notice of termination of services of the petitioner did not arise. Moreover, the respondent No.2 has not been providing the manpower on outsource basis these days and therefore the tender has been awarded to another company which is providing the manpower on outsource basis to them. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has been resisted by the respondent No.2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has admitted that the petitioner was engaged as gardener in Medical College Chamba through him and services of the petitioner were terminated on 1.6.2019. It has been averred that on the request of respondent No.1, he has engaged the petitioner along-with other workmen as gardeners to provide service in Medical College, Chamba for one year. At the time of engagement of the petitioner, he had voluntarily executed an affidavit affirming that he was given job on his request purely on contractual and temporary basis for one year and it was transferable all over India and it could be terminated, if so required and therefore there was no need to follow the provisions of the I.D. Act or to serve notice upon the petitioner prior to termination of his services as the duration of his job was for one year only. He is only supplying the manpower on demand. When the respondent No.1 asked to supply manpower, he supplied the same and when the respondent No.1 intimated that he did not require the services of the gardeners, he terminated/disengaged the petitioner for which he was competent in view of affidavit executed by the petitioner. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinders filed by the petitioner, the averments made in the petition have been reasserted after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 28.4.2023:—

1. Whether the services of the petitioner were terminated w.e.f. 1-6-2019 by the respondents without following the provisions of Industrial Disputes Act, as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative, to what relief, the petitioner is entitled to? ..*OPP.*
3. Whether the claim petition is not maintainable, as alleged? ..*OPR.*
4. Whether the petitioner has not come to this Court with clean hands and has suppressed the material facts, as alleged. If so, its effect? ..*OPR.*
5. Whether the petitioner has no cause of action to file the claim, as alleged? ..*OPR.*
6. Whether the petitioner was on contractual employee. If so, its effect? ..*OPR.*
7. Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

9. On the other hand, Principal Dr. Sunder Singh Dogra appeared as RW1 and closed the evidence. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2 and closed the evidence.

10. I have heard the Learned Counsel for the parties and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : No

Issue No.5 : Yes

Issue No.6 : No

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1, 2 and 6

12. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. It is not in dispute between the parties that the petitioner was engaged as gardener by the respondent No.2 in Medical College Chamba on 20.3.2018 and he worked upto 30.5.2019 and his services were terminated w.e.f. 1.6.2019.

14. The petitioner has claimed that his services were terminated by the respondents without serving any notice upon him and that he, after termination of his services, approached respondent several times to re-engage him but the respondent has not paid any heed to his requests and thus has prayed that his termination order be set aside and respondent be directed to re-engage him in the department in the same capacity. The petitioner thus has claimed that the respondent No.1 be directed to re-engage him as gardener in the Medical College, Chamba.

15. On the other hand, the respondent No.1 has claimed that the petitioner was not engaged by him but he was engaged by respondent No.2 to whom tender was awarded to provide manpower as per requirement.. Thus, the respondent No.1 has claimed that the petitioner was the employee/workman of the respondent No.2 who had engaged him and his services were terminated by respondent No.2 and therefore there was no necessity to serve any notice upon him and since the respondent No.2 has not been providing manpower on outsource basis these days, the work has been awarded to another company.

16. The respondent No.2 has also admitted that petitioner along-with other workmen was engaged by him on the request of the respondent No.1 as gardeners to provide services in Medical

College Chamba. It has been averred that the petitioner was engaged for one year only qua which he had executed an affidavit voluntarily and that the respondent No.1 had intimated that he did not require services of the gardeners and therefore, he terminated the services of the petitioner w.e.f. 1.6.2019.

17. Thus it is not in dispute between the parties that the petitioner was engaged by the respondent No.2 to whom the tender was awarded by the respondent No.1 to supply the manpower for one year.

18. The petitioner Vijay Kumar in substantiation of his claim appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He categorically has stated that his services were terminated w.e.f. 1.6.2019 without giving any prior notice and without following the provisions of the I.D. Act. He has not sworn any affidavit. As matter of fact, his signatures were obtained on number of written and blank papers and forms at the time of his joining, on the pretext that those papers were mere formality and required to complete the record. If his signatures were obtained on so-called affidavit by misrepresentation and fraudulently, the same is not binding upon him. He has also tendered identity card Ext. PW1/B and bank account pass book Ext. PW1/C in evidence. In his cross-examination on behalf of respondent No.1, he categorically has admitted that he was engaged through respondent No.2. He has also admitted that wages were paid to him by the respondent No.2 and no amount was ever paid to him by the respondent No.1. He did not know that it was internal matter of the respondent No.2 Company as to which worker was to be deputed. He also did not know that there was agreement/contract between respondents No.1 and 2 to engage the workers for a period of one year only. He has further stated that interviews were taken by the Manager of the respondent No.2 and the College had not issued any advertisement. He has also admitted that they used to work under the supervision and instructions of the respondent No.2. He has also admitted that now RK Manpower Company is providing labour to the respondent No.1. He has also admitted that no identity card was ever issued in his favour by the Medical College (respondent No.1). In the cross-examination on behalf of respondent No.2, he has admitted that the company had taken affidavit from them and then added that they were made to sign blank papers. But he has admitted his signatures on the affidavit.

19. On the other hand, present Principal, Dr. Sunder Singh Dogra appeared as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered various letters dated 10.2.2016, 16.3.2017, 14.9.2017, 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/A to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meeting dated 11.12.2018 Ext. RW1/K, minutes of meeting dated 5.3.2019 Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 bearing No.3184-89 Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O, letter dated 15.6.2019 Ext. RW1/P and letter dated 6.4.2018 Ext. RW1/Q in evidence. In his cross-examination on behalf of respondent No.2, he has admitted that the manpower for gardening services were provided to the respondent No.1 as per letter dated 6.3.2018 and their services were terminated as per letter dated 30.5.2019. In his cross-examination on behalf of the petitioner, he has stated that he was posted as Principal in Pt. JLMGMC Hospital since 7.6.2023 and he was not posted in the college when the petitioner was engaged in the year 2018. He did not know that Ms. Pooja was posted as Law Officer in Medical College Chamba in the year 2018. He has denied that the petitioner was working under the control and supervision of the respondent No.1. He has admitted that they had not issued any notice to the petitioner and added that he was not their employee.

20. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2. He has also filed affidavit in his examination-in-chief wherein he has affirmed all the averments made

in the reply on oath. He has also tendered affidavit of the petitioner Ext. RW2/A, letter dated 30.5.2019 Ext. RW2/B and another letter dated 6.3.2018 Ext. RW2/C in evidence. In his cross-examination on behalf of respondent No.1, he has admitted that the respondent No.1 had issued award letter to them. He has denied that they had entered into a contract with the respondent No.1. He has further stated that the State of HP had floated tenders for providing para medical staff for Medical Colleges coming up and they participated in the tender and the tender was approved by the Government as per the terms and conditions thereof. He has admitted that the respondent No.1 had given requirement of posts and had not asked to engage any specific person and added that they used to send list of workers out of which the committee of the respondent No.1 used to approve the names of the workers, but they have not produced any such list on record. He has further stated that invoices Ext. RW1/H1 to Ext. RW1/H9 were prepared by the respondent No.2. He has admitted that the lump sum payment of wages of the workers/manpower were paid to the respondent No.2 by the respondent No.1 and the wages were paid to the workers by the respondent No.2. In his cross-examination on behalf of the petitioner, he has admitted that the gardeners deployed with the respondent No.1 used to work under the supervision and control of the respondent No.1. The affidavits of the candidates were prepared by the candidates themselves. He has denied that affidavit Ext. RW2/A was prepared by the then Law Officer of the respondent No.1.

21. This is entire evidence led by all the parties.

22. Thus it is evident from the resume of the evidence of the witnesses on oath the parties discussed supra that the petitioner in his cross-examination himself has admitted that he had executed affidavit Ext. RW2/A. He has stated that he was made to sign blank papers, however, perusal of affidavit duly attested by notary public would show that the same has been signed by the petitioner which fact has been admitted by him and the manner in which affidavit has been signed, it cannot be said that the signatures of the petitioner were obtained on blank papers therefore, the plea of the petitioner that the respondent No.2 had taken his signatures on blank papers and he had not signed the affidavit Ext. RW2/A voluntarily, cannot be accepted.

23. In affidavit Ext. RW2/A, the petitioner has affirmed that he was aware that job was given to him purely on contract and temporary basis for one year and it was transferable all over India. Thus, in view of the admission of the petitioner in affidavit Ext. RW2/A, the petitioner was engaged by the respondent No.2 for one year and he could be transferred by the respondent No.2 anywhere in India. The respondent No.2 has placed on the record award letter dated 6.3.2018 Ext. RW2/C whereby the respondent No.1 had requested the respondent No.2 to provide the gardening services @ Rs.76,200/- per month for one financial year and admittedly in pursuance to the said letters the gardeners were engaged by respondent No.2 and were deputed in Medical College Chamba for gardening services. The respondent No.2 has also placed on record letter dated 30.5.2019 Ext. RW2/B issued by the respondent No.1 to discontinue the gardeners services and in pursuance to the said letter, the services of the petitioner and other gardeners were terminated w.e.f. 1.6.2019, admittedly after two months of the period of one year for which he was engaged by respondent No.2 to provide gardening services to the respondent No.1 Medical College, Chamba.

24. So far as the plea of the respondent No.2 that the petitioner was a contractual employee is concerned, the affidavit only proves that the petitioner was engaged for one year. The respondent No.1 admittedly had not entered into any written contract with the petitioner and therefore, he cannot be said to be a contractual employee.

25. The respondent No.1 has also placed on record notification dated 10th February, 2016 Ext. RW1/A regarding establishment of Pt. JLNGMC Chamba along-with other colleges at Hamirpur and Nahan, letter dated 16.3.2017 Ext. RW1/B written by the Principal Secretary (Health) to the Govt. of H.P. to the Principal, Pt. Jawahar Lal Nehru Govt. Medical College,

Chamba regarding filling up of the various posts of different categories with further directions to outsource sanitation service (not the posts), security services (not the posts), patient care services (not the posts) and the gardening services, letter dated 14.9.2017 Ext. RW1/C written to respondent No.2 to provide manpower as per attached annexures, award letters 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/D to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meetings Ext. RW1/K and Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 regarding discontinuation of patient care service Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O regarding discontinuation of gardening service, letter dated 15.6.2019 Ext. RW1/P regarding Audit Para and Award letter dated 6.4.2018 Ext. RW1/Q regarding gardening service.

26. The perusal of aforesaid documents clearly shows that the State Government had directed the respondent No.1 to outsource the sanitation service, security services, patient care services and gardening services and accordingly tenders were floated and after due process, the respondent No.1 outsourced patient care service, gardening services etc. to the respondent No.2 and the respondent No.2 among others, provided manpower i.e. gardeners to the respondent No.1 including the petitioner for one year. The petitioner had worked with the respondent No.1 w.e.f. 20.3.2018 to 30.5.2019 as outsource gardener and thereafter the services of the petitioner were discontinued/terminated by respondent No.2 as per the request letter dated 30.5.2019 Ext. RW2/B written by the Joint Director of Medical College, Chamba to respondent No.2. These facts have not been disputed even by the petitioner as he himself has admitted that he was engaged by the respondent No.2 and he was paid wages by the respondent No.2 company and he was not ever paid by the respondent No.1 and his services were terminated by the respondent No.2. Hence, it is established on record that there exists no relationship of employer and employee between the petitioner and the respondent No.1; rather he was engaged by the respondent No.2 and he was workman of the respondent No.2.

27. Learned Counsel for the petitioner has submitted that though the petitioner was engaged by respondent No.2 yet he had engaged him for respondent No.1 and the petitioner worked under the direct control and supervision of the respondent No.1 and therefore the petitioner was the workman/employee of the respondent No.1. Hence services of the petitioner could have been terminated by the respondent No.1 as per the provisions of Section 25-F of the I.D. Act after serving one month's notice to him or making payment of one month's wages in lieu of notice period and retrenchment compensation, but respondent No.1 did not terminated the services of the petitioner in accordance with the provisions of Section 25-F of the I.D. Act and therefore termination of the services of the petitioner being illegal be set aside and the respondent No.1 be directed to reinstate him as gardener.

28. There is no substance in the contention of the learned counsel for the petitioner. Hon'ble Supreme Court in **Balwant Rai Saluja & Anr. Vs. AIR India (Ltd.) & Ors.** 2014 LawSuit(SC) 628 in para No.61 has held as under:—

[61] Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia, (i) who appoints the workers; (ii) who pays the salary/remuneration; (iii) who has the authority to dismiss; (iv) who can take disciplinary action; (v) whether there is continuity of service; and (vi) extent of control and supervision, i.e. whether there exists complete control and supervision. As regards, extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case, the International Airport Authority of India case and the NALCO case.

29. In the case in hand, as has been observed above, the petitioner was appointed by the respondent No.2 and he was paid salary/remuneration by the respondent No.2 and it is the respondent No.2, who has terminated his services and thus authority to dismiss the petitioner was with the respondent No.2 and respondent No.2 only was competent to take disciplinary action against the petitioner and there was no continuity in service and as per the admission the petitioner, they used to work under the supervision and instructions of the respondent No.2 and thus the respondent No.2 was having complete control and supervision over the work of the petitioner. Hence in view of the law laid down by the Hon'ble Supreme Court in above said case, the petitioner was employee of the respondent No.2 and there was no relationship of employer and employee between respondent No.1 and the petitioner and thus the petitioner was not employee of the respondent No.1.

30. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr.**, 2019 LLR 1109 has held that wherethe workman fails to establish relationship of employee and employer in between him and the respondent, he is not entitled to any relief. It was held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

31. In the case in hand, as has been observed above, there is no relationship of employer and employee between the petitioner and respondent No.1; rather he was employee/workman of the respondent No.2, who has engaged him for one year as per affidavit Ext.PW2/A executed by the petitioner and the petitioner has not claimed any relief against respondent No.2; rather he has prayed that the respondent department i.e. respondent No.1 be directed to re-engage him in the

same capacity. The respondent No.2 is no more providing manpower to the respondent No.2, therefore, in such set of circumstances, the respondent No.1 or the respondent No.2 cannot be ordered to re-engage the petitioner as gardener in Medical College & Hospital Chamba as claimed by the petitioner and the petitioner is not entitled to any relief. Hence issues No.1 and 2 are decided against the petitioner and issue No.6 is decided against the respondents and are answered as such.

Issue No. 3

32. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 4

33. Neither any evidence has been led nor any arguments were addressed as to how the petitioner has not come to the court with clean hands and has suppressed the material facts. Hence the respondents failed to prove the same. Consequently, this issue is decided against the respondents and is answered in negative.

Issue No. 5

34. In view of findings of issues No.1 and 2 above, the petitioner has failed to prove cause of action. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Relief

35. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

36. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 29/2020

Date of Institution : 02.3.2020

Date of Decision : 10.04.2024

Shri Ajay Singh s/o Shri Sukhdev, r/o Village Belly, P.O. Rajera, Tehsil & District Chamba, H.P.*Petitioner.*

Versus

1. The Principal, Pt. JLNMC & Hospital Chamba, Tehsil and District Chamba, H.P.
2. Managing Director, IL&FS Human Resources Ltd. Pt. JLNMC/26 Bhasula House, Om Vihar, 34 New Delhi-110059.*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. S.K. Thakur, Ld. Adv.

For the respondent No.1 : Sh. Jitender Kumar, Ld. ADA

For the respondent No.2 : Ms. Himakshi Gautam, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Ajay Singh S/O Shri Sukhdev, R/O Village Belly, P.O. Rajera, Tehsil & District Chamba, H.P. by (i) the Principal, Government PanditJawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL&FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from above employers?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage gardener by the respondent No.2 in Pt. Jwahr Lal Nehru Govt. Medical College Chamba (hereinafter in short is referred to as Medical College Chamba) on 20.3.2018 and he worked upto 30.5.2019. His services were terminated on 1.6.2019 without following the provisions of the I.D. Act and without giving prior notice to him. After termination of his services, he approached the respondent several times to re-engage him but the respondent did not pay any heed to his requests. Sufficient work was available with the respondent. The respondent terminated his services in violation of provisions of Section 25 of the I.D. Act. It has thus been prayed that his termination be set aside and the respondent department be directed to re-engage him in the same capacity. Hence this petition.

4. The petition has been resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has been admitted that the petitioner was working as gardener in the Medical College Chamba and he was appointed by the respondent No.2. It has been averred that when the Government permitted to run Medical College at Chamba in the name of Pandit Jawahar Lal Nehru Medical College (PJLNMC) & Hospital, Chamba, they required staff for smooth working of

institution as per sanctioned letter from the Special Secretary (Health), to the Government of H.P. Thereafter, they have decided to hire the staff from the firm/company, which used to supply manpower on outsource basis. After due process, tender was awarded to respondent No.2 to provide manpower as per requirement of the institution. The petitioner was not engaged by them but by the respondent No.2. It has been admitted that the services of the petitioner were terminated w.e.f. 1.6.2019. It has been averred that the then Principal of JLN GMC & Hospital Chamba held meeting on 1.12.2018 for reorganization of outsourcing security service and sanitation service in Medical College Chamba. After discussion, the committee decided to hire the staff on outsource basis as per requirement of the work. The Principal of Medical College Chamba accordingly directed the respondent No.2 to provide manpower as per list sanctioned by the joint committee on 1.12.2018. Thereafter, the respondent No.2, provided the manpower as per list and respondent No.1 has nothing to do with its internal matter. The petitioner was neither their employee nor had he entered into any contract with the respondent No.1, so question of issuance of prior notice of termination of services of the petitioner did not arise. Moreover, the respondent No.2 has not been providing the manpower on outsource basis these days and therefore the tender has been awarded to another company which is providing the manpower on outsource basis to them. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has been resisted by the respondent No.2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has admitted that the petitioner was engaged as gardener in Medical College Chamba through him and services of the petitioner were terminated on 1.6.2019. It has been averred that on the request of respondent No.1, he has engaged the petitioner along-with other workmen as gardeners to provide service in Medical College, Chamba for one year. At the time of engagement of the petitioner, he had voluntarily executed an affidavit affirming that he was given job on his request purely on contractual and temporary basis for one year and it was transferable all over India and it could be terminated, if so required and therefore there was no need to follow the provisions of the I.D. Act or to serve notice upon the petitioner prior to termination of his services as the duration of his job was for one year only. He is only supplying the manpower on demand. When the respondent No.1 asked to supply manpower, he supplied the same and when the respondent No.1 intimated that he did not require the services of the gardeners, he terminated/disengaged the petitioner for which he was competent in view of affidavit executed by the petitioner. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinders filed by the petitioner, the averments made in the petition have been reasserted after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 23.12.2022:—

1. Whether termination of the services of petitioner by the respondents w.e.f. 01.06.2019 is/was illegal and unjustified as alleged? ..OPP.
2. If issue no.1 is proved in affirmative to what services benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable as alleged? ..OPR 1&2.
4. Whether the petitioner has no locus standi to file the present case as alleged? ..OPR1&2.
5. Whether the petitioner has no cause of action to file the present claim as alleged? ..OPR1&2.

6. Whether the petitioner has not come to the court with clean hands and concealed the true and material facts from the court as alleged? ..OPR1&2.

Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

9. On the other hand, Principal Dr. Sunder Singh Dogra appeared as RW1 and closed the evidence. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2 and closed the evidence.

10. I have heard the Learned Counsel for the parties and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : Yes

Issue No.5 : Yes

Issue No.6 : No

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

12. both the issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. It is not in dispute between the parties that the petitioner was engaged as gardener by the respondent No.2 in Medical College Chamba on 20.3.2018 and he worked upto 30.5.2019 and his services were terminated w.e.f. 1.6.2019.

14. The petitioner has claimed that his services were terminated by the respondents without serving any notice upon him and that he, after termination of his services, approached respondent several times to re-engage him but the respondent has not paid any heed to his requests and thus has prayed that his termination order be set aside and respondent be directed to re-engage him in the department in the same capacity. The petitioner thus has claimed that the respondent No.1 be directed to re-engage him as gardener in the Medical College, Chamba.

15. On the other hand, the respondent No.1 has claimed that the petitioner was not engaged by him but he was engaged by respondent No.2 to whom tender was awarded to provide manpower

as per requirement.. Thus, the respondent No.1 has claimed that the petitioner was the employee/workman of the respondent No.2 who had engaged him and his services were terminated by respondent No.2 and therefore there was no necessity to serve any notice upon him and since the respondent No.2 has not been providing manpower on outsource basis these days, the work has been awarded to another company.

16. The respondent No.2 has also admitted that petitioner along-with other workmen was engaged by him on the request of the respondent No.1 as gardeners to provide services in Medical College Chamba. It has been averred that the petitioner was engaged for one year only qua which he had executed an affidavit voluntarily and that the respondent No.1 had intimated that he did not require services of the gardeners and therefore, he terminated the services of the petitioner w.e.f. 1.6.2019.

17. Thus it is not in dispute between the parties that the petitioner was engaged by the respondent No.2 to whom the tender was awarded by the respondent No.1 to supply the manpower for one year.

18. The petitioner Ajay Singh in substantiation of his claim, appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He categorically has stated that his services were terminated w.e.f. 1.6.2019 without giving any prior notice and without following the provisions of the I.D. Act. He has not sworn any affidavit. As matter of fact, his signatures were obtained on number of written and blank papers and forms at the time of his joining, on the pretext that those papers were mere formality and required to complete the record. If his signatures were obtained on so-called affidavit by misrepresentation and fraudulently, the same is not binding upon him. He has also tendered identity card Ext. PW1/B and bank account pass book Ext. PW1/C in evidence. In his cross-examination on behalf of respondent No.1, he categorically has admitted that he was engaged through respondent No.2. He has also admitted that wages were paid to him by the respondent No.2 and no amount was ever paid to him by the respondent No.1. He did not know that it was internal matter of the respondent No.2 Company as to which worker was to be deputed. He also did not know that there was agreement/contract between respondents No.1 and 2 to engage the workers for a period of one year only. He has further stated that interviews were taken by the Manager of the respondent No.2 and the College had not issued any advertisement. He has also admitted that they used to work under the supervision and instructions of the respondent No.2. He has also admitted that now RK Manpower Company is providing labour to the respondent No.1. He has also admitted that no identity card was ever issued in his favour by the Medical College (respondent No.1). In the cross-examination on behalf of respondent No.2, he has admitted that the company had taken affidavit from them and then added that they were made to sign blank papers. But he has admitted his signatures on the affidavit.

19. On the other hand, present Principal, Dr. Sunder Singh Dogra appeared as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered various letters dated 10.2.2016, 16.3.2017, 14.9.2017, 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/A to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meeting dated 11.12.2018 Ext. RW1/K, minutes of meeting dated 5.3.2019 Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 bearing No.3184-89 Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O, letter dated 15.6.2019 Ext. RW1/P and letter dated 6.4.2018 Ext. RW1/Q in evidence. In his cross-examination on behalf of respondent No.2, he has admitted that the manpower for gardening services were provided to the respondent No.1 as per letter dated 6.3.2018 and their services were terminated as per letter dated

30.5.2019. In his cross-examination on behalf of the petitioner, he has stated that he was posted as Principal in Pt. JLMGMC Hospital since 7.6.2023 and he was not posted in the college when the petitioner was engaged in the year 2018. He did not know that Ms. Pooja was posted as Law Officer in Medical College Chamba in the year 2018. He has denied that the petitioner was working under the control and supervision of the respondent No.1. He has admitted that they had not issued any notice to the petitioner and added that he was not their employee.

20. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2. He has also filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered affidavit of the petitioner Ext. RW2/A, letter dated 30.5.2019 Ext. RW2/B and another letter dated 6.3.2018 Ext. RW2/C in evidence. In his cross-examination on behalf of respondent No.1, he has admitted that the respondent No.1 had issued award letter to them. He has denied that they had entered into a contract with the respondent No.1. He has further stated that the State of HP had floated tenders for providing para medical staff for Medical Colleges coming up and they participated in the tender and the tender was approved by the Government as per the terms and conditions thereof. He has admitted that the respondent No.1 had given requirement of posts and had not asked to engage any specific person and added that they used to send list of workers out of which the committee of the respondent No.1 used to approve the names of the workers, but they have not produced any such list on record. He has further stated that invoices Ext. RW1/H1 to Ext. RW1/H9 were prepared by the respondent No.2. He has admitted that the lump sum payment of wages of the workers/manpower were paid to the respondent No.2 by the respondent No.1 and the wages were paid to the workers by the respondent No.2. In his cross-examination on behalf of the petitioner, he has admitted that the gardeners deployed with the respondent No.1 used to work under the supervision and control of the respondent No.1. The affidavits of the candidates were prepared by the candidates themselves. He has denied that affidavit Ext. RW2/A was prepared by the then Law Officer of the respondent No.1.

21. This is entire evidence led by all the parties.

22. Thus it is evident from the resume of the evidence of the witnesses on oath the parties discussed supra that the petitioner in his cross-examination himself has admitted that he had executed affidavit Ext. RW2/A. He has stated that he was made to sign blank papers, however, perusal of affidavit duly attested by notary public would show that the same has been signed by the petitioner which fact has been admitted by him and the manner in which affidavit has been signed, it cannot be said that the signatures of the petitioner were obtained on blank papers therefore, the plea of the petitioner that the respondent No.2 had taken his signatures on blank papers and he had not signed the affidavit Ext. RW2/A voluntarily, cannot be accepted.

23. In affidavit Ext. RW2/A, the petitioner has affirmed that he was aware that job was given to him purely on contract and temporary basis for one year and it was transferable all over India. Thus, in view of the admission of the petitioner in affidavit Ext. RW2/A, the petitioner was engaged by the respondent No.2 for one year and he could be transferred by the respondent No.2 anywhere in India. The respondent No.2 has placed on the record award letter dated 6.3.2018 Ext. RW2/C whereby the respondent No.1 had requested the respondent No.2 to provide the gardening services @ Rs.76,200/- per month for one financial year and admittedly in pursuance to the said letters the gardeners were engaged by respondent No.2 and were deputed in Medical College Chamba for gardening services. The respondent No.2 has also placed on record letter dated 30.5.2019 Ext. RW2/B issued by the respondent No.1 to discontinue the gardeners services and in pursuance to the said letter, the services of the petitioner and other gardeners were terminated w.e.f. 1.6.2019, admittedly after two months of the period of one year for which he was engaged by respondent No.2 to provide gardening services to the respondent No.1 Medical College, Chamba.

24. The respondent No.1 has also placed on record notification dated 10th February, 2016 Ext. RW1/A regarding establishment of Pt. JLN GMC Chamba along-with other colleges at Hamirpur and Nahan, letter dated 16.3.2017 Ext. RW1/B written by the Principal Secretary (Health) to the Govt. of H.P. to the Principal, Pt. Jawahar Lal Nehru Govt. Medical College, Chamba regarding filling up of the various posts of different categories with further directions to outsource sanitation service (not the posts), security services (not the posts), patient care services (not the posts) and the gardening services, letter dated 14.9.2017 Ext. RW1/C written to respondent No.2 to provide manpower as per attached annexures, award letters 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/D to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meetings Ext. RW1/K and Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 regarding discontinuation of patient care service Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O regarding discontinuation of gardening service, letter dated 15.6.2019 Ext. RW1/P regarding Audit Para and Award letter dated 6.4.2018 Ext. RW1/Q regarding gardening service.

25. The perusal of aforesaid documents clearly shows that the State Government had directed the respondent No.1 to outsource the sanitation service, security services, patient care services and gardening services and accordingly tenders were floated and after due process, the respondent No.1 outsourced patient care service, gardening services etc. to the respondent No.2 and the respondent No.2 among others, provided manpower i.e. gardeners to the respondent No.1 including the petitioner for one year. The petitioner had worked with the respondent No.1 w.e.f. 20.3.2018 to 30.5.2019 as outsource gardener and thereafter the services of the petitioner were discontinued/terminated by respondent No.2 as per the request letter dated 30.5.2019 Ext. RW2/B written by the Joint Director of Medical College, Chamba to respondent No.2. These facts have not been disputed even by the petitioner as he himself has admitted that he was engaged by the respondent No.2 and he was paid wages by the respondent No.2 company and he was not ever paid by the respondent No.1 and his services were terminated by the respondent No.2. Hence, it is established on record that there exists no relationship of employer and employee between the petitioner and the respondent No.1; rather he was engaged by the respondent No.2 and he was workman of the respondent No.2.

26. Learned Counsel for the petitioner has submitted that though the petitioner was engaged by respondent No.2 yet he had engaged him for respondent No.1 and the petitioner worked under the direct control and supervision of the respondent No.1 and therefore the petitioner was the workman/employee of the respondent No.1. Hence services of the petitioner could have been terminated by the respondent No.1 as per the provisions of Section 25-F of the I.D. Act after serving one month's notice to him or making payment of one month's wages in lieu of notice period and retrenchment compensation, but respondent No.1 did not terminate the services of the petitioner in accordance with the provisions of Section 25-F of the I.D. Act and therefore termination of the services of the petitioner being illegal be set aside and the respondent No.1 be directed to reinstate him as gardener.

27. There is no substance in the contention of the learned counsel for the petitioner. Hon'ble Supreme Court in **Balwant Rai Saluja & Anr. Vs. AIR India (Ltd.) & Ors.** 2014 LawSuit(SC) 628 in para No.61 has held as under:—

[61] Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia, (i) who appoints the workers; (ii) who pays the salary/remuneration; (iii) who has the authority to dismiss; (iv) who can take disciplinary action; (v) whether there is continuity of service; and (vi) extent of control and supervision, i.e. whether there exists complete control and supervision. As

regards, extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case, the International Airport Authority of India case and the NALCO case.

28. In the case in hand, as has been observed above, the petitioner was appointed by the respondent No.2 and he was paid salary/remuneration by the respondent No.2 and it is the respondent No.2, who has terminated his services and thus authority to dismiss the petitioner was with the respondent No.2 and respondent No.2 only was competent to take disciplinary action against the petitioner and there was no continuity in service and as per the admission the petitioner they used to work under the supervision and instructions of the respondent No.2 and thus the respondent No.2 was having complete control and supervision over the work of the petitioner. Hence in view of the law laid down by the Hon'ble Supreme Court in above said case, the petitioner was employee of the respondent No.2 and there was no relationship of employer and employee between respondent No.1 and the petitioner and thus the petitioner was not employee of the respondent No.1.

29. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr., 2019 LLR 1109** has held that where the workman fails to establish relationship of employee and employer in between him and the respondent, he is not entitled to any relief. It was held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

30. In the case in hand, as has been observed above, there is no relationship of employer and employee between the petitioner and respondent No.1; rather he was employee/workman of the respondent No.2, who has engaged him for one year as per affidavit Ext.PW2/A executed by the petitioner and the petitioner has not claimed any relief against respondent No.2; rather he has prayed that the respondent department i.e. respondent No.1 be directed to re-engage him in the same capacity. The respondent No.2 is no more providing manpower to the respondent No.2, therefore, in such set of circumstances, the respondent No.1 or the respondent No.2 cannot be ordered to re-engage the petitioner as gardener in Medical College & Hospital Chamba as claimed by the petitioner and the petitioner is not entitled to any relief. Hence both the issues are decided against the petitioner and are answered in negative.

Issue No. 3

31. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 4

32. In view of findings of issues No.1 and 2 above, the petitioner has no locus standi to file present petition. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No. 5

33. In view of findings of issues No.1 and 2 above, the petitioner has failed to prove cause of action. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No. 6

34. Neither any evidence has been led nor any arguments were addressed as to how the petitioner has not come to the court with clean hands and what material facts have been concealed by him. Hence the respondents have failed to prove the same. Consequently, this issue is decided against the respondents and is answered in negative.

Relief

35. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

36. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 38/2020

Date of Institution : 02.3.2020

Date of Decision : 10.04.2024

Shri Naveen Kumar s/o Shri Hujti Ram, r/o Village Ramsainka, P.O. Gehra, Tehsil &
District Chamba, H.P.*Petitioner* .

Versus

1. The Principal, Pt. JLNMC & Hospital Chamba, Tehsil and District Chamba, H.P.
2. Managing Director, IL&FS Human Resources Ltd. Pt. JLNMC/26 Bhasula House, Om
Vihar, 34 New Delhi-110059.*Respondents*.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. S.K. Thakur, Ld. Adv.

For the respondent No.1 : Sh. Jitender Kumar, Ld. ADA

For the respondent No.2 : Ms. Himakshi Gautam, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Naveen Kumar S/O Shri Hujti Ram, R/O Village Ramsainka, P.O. Gehra, Tehsil & District Chamba, H.P. by (i) the Principal, Government Pandit Jawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL&FS Human Resources Limited, Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority and past service benefits the above worker is entitled to from the above employers?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage gardener by the respondent No.2 in Pt. Jawahar Lal Nehru Govt. Medical College Chamba (hereinafter in short is referred to as Medical College Chamba) on 20.3.2018 and he worked upto 30.5.2019. His services were terminated on 1.6.2019 without following the provisions of the I.D. Act and without giving prior notice to him. After termination of his services, he approached the respondent several times to re-engage him but the respondent did not pay any heed to his requests. Sufficient work was available with the respondent. The respondent terminated his services in violation of provisions of

Section 25 of the I.D. Act. It has thus been prayed that his termination be set aside and the respondent department be directed to re-engage him in the same capacity. Hence this petition.

4. The petition has been resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has been admitted that the petitioner was working as gardener in the Medical College Chamba and he was appointed by the respondent No.2. It has been averred that when the Government permitted to run Medical College at Chamba in the name of Pandit Jawahar Lal Nehru Medical College (PJLPMC) & Hospital, Chamba, they required staff for smooth working of institution as per sanctioned letter from the Special Secretary (Health), to the Government of H.P. Thereafter, they have decided to hire the staff from the firm/company, which used to supply manpower on outsource basis. After due process, tender was awarded to respondent No.2 to provide manpower as per requirement of the institution. The petitioner was not engaged by them but by the respondent No.2. It has been admitted that the services of the petitioner were terminated w.e.f. 1.6.2019. It has been averred that the then Principal of JLNPMC & Hospital Chamba held meeting on 1.12.2018 for reorganization of outsourcing security service and sanitation service in Medical College Chamba. After discussion, the committee decided to hire the staff on outsource basis as per requirement of the work. The Principal of Medical College Chamba accordingly directed the respondent No.2 to provide manpower as per list sanctioned by the joint committee on 1.12.2018. Thereafter, the respondent No.2, provided the manpower as per list and respondent No.1 has nothing to do with its internal matter. The petitioner was neither their employee nor had he entered into any contract with the respondent No.1, so question of issuance of prior notice of termination of services of the petitioner did not arise. Moreover, the respondent No.2 has not been providing the manpower on outsource basis these days and therefore the tender has been awarded to another company which is providing the manpower on outsource basis to them. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has been resisted by the respondent No.2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has admitted that the petitioner was engaged as gardener in Medical College Chamba through him and services of the petitioner were terminated on 1.6.2019. It has been averred that on the request of respondent No.1, he has engaged the petitioner along-with other workmen as gardeners to provide service in Medical College, Chamba for one year. At the time of engagement of the petitioner, he had voluntarily executed an affidavit affirming that he was given job on his request purely on contractual and temporary basis for one year and it was transferable all over India and it could be terminated, if so required and therefore there was no need to follow the provisions of the I.D. Act or to serve notice upon the petitioner prior to termination of his services as the duration of his job was for one year only. He is only supplying the manpower on demand. When the respondent No.1 asked to supply manpower, he supplied the same and when the respondent No.1 intimated that he did not require the services of the gardeners, he terminated/disengaged the petitioner for which he was competent in view of affidavit executed by the petitioner. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinders filed by the petitioner, the averments made in the petition have been reasserted after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 25.5.2023:—

1. Whether the services of the petitioner have been terminated by the respondents without complying with the provisions of the I.D. Act, 1947, as alleged? ..OPP.

2. If issue no.1 is proved in affirmative, to what relief, the petitioner is entitled to?
..OPP.

3. Whether the claim petition is not maintainable and the petitioner has no locus standi to file the claim, as alleged?
..OPR 1&2.

4. Whether the petitioner has no cause of action to file the claim petition, as alleged?
..OPR1&2.

5. Whether the petitioner was not the employee of the respondent No.1, as alleged?
..OPR1&2.

6. Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

9. On the other hand, Principal Dr. Sunder Singh Dogra appeared as RW1 and closed the evidence. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2 and closed the evidence.

10. I have heard the Learned Counsel for the parties and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : Yes

Issue No.5 : Yes

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1, 2 and 5

12. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. It is not in dispute between the parties that the petitioner was engaged as gardener by the respondent No.2 in Medical College Chamba on 20.3.2018 and he worked upto 30.5.2019 and his services were terminated w.e.f. 1.6.2019.

14. The petitioner has claimed that his services were terminated by the respondents without serving any notice upon him and that he, after termination of his services, approached respondent

several times to re-engage him but the respondent has not paid any heed to his requests and thus has prayed that his termination order be set aside and respondent be directed to re-engage him in the department in the same capacity. The petitioner thus has claimed that the respondent No.1 be directed to re-engage him as gardener in the Medical College, Chamba.

15. On the other hand, the respondent No.1 has claimed that the petitioner was not engaged by him but he was engaged by respondent No.2 to whom tender was awarded to provide manpower as per requirement.. Thus, the respondent No.1 has claimed that the petitioner was the employee/workman of the respondent No.2 who had engaged him and his services were terminated by respondent No.2 and therefore there was no necessity to serve any notice upon him and since the respondent No.2 has not been providing manpower on outsource basis these days, the work has been awarded to another company.

16. The respondent No.2 has also admitted that petitioner along-with other workmen was engaged by him on the request of the respondent No.1 as gardeners to provide services in Medical College Chamba. It has been averred that the petitioner was engaged for one year only qua which he had executed an affidavit voluntarily and that the respondent No.1 had intimated that he did not require services of the gardeners and therefore, he terminated the services of the petitioner w.e.f. 1.6.2019.

17. Thus it is not in dispute between the parties that the petitioner was engaged by the respondent No.2 to whom the tender was awarded by the respondent No.1 to supply the manpower for one year.

18. The petitioner Naveen Kumar in substantiation of his claim appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He categorically has stated that his services were terminated w.e.f. 1.6.2019 without giving any prior notice and without following the provisions of the I.D. Act. He has not sworn any affidavit. As matter of fact, his signatures were obtained on number of written and blank papers and forms at the time of his joining, on the pretext that those papers were mere formality and required to complete the record. If his signatures were obtained on so-called affidavit by misrepresentation and fraudulently, the same is not binding upon him. He has also tendered identity card Ext. PW1/B and bank account pass book Ext. PW1/C in evidence. In his cross-examination on behalf of respondent No.1, he categorically has admitted that he was engaged through respondent No.2. He has also admitted that wages were paid to him by the respondent No.2 and no amount was ever paid to him by the respondent No.1. He did not know that it was internal matter of the respondent No.2 Company as to which worker was to be deputed. He also did not know that there was agreement/contract between respondents No.1 and 2 to engage the workers for a period of one year only. He has further stated that interviews were taken by the Manager of the respondent No.2 and the College had not issued any advertisement. He has also admitted that they used to work under the supervision and instructions of the respondent No.2. He has also admitted that now RK Manpower Company is providing labour to the respondent No.1. He has also admitted that no identity card was ever issued in his favour by the Medical College (respondent No.1). In the cross-examination on behalf of respondent No.2, he has admitted that the company had taken affidavit from them and then added that they were made to sign blank papers. But he has admitted his signatures on the affidavit.

19. On the other hand, present Principal, Dr. Sunder Singh Dogra appeared as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered various letters dated 10.2.2016, 16.3.2017, 14.9.2017, 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/A to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another

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20. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2. He has also filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered affidavit of the petitioner Ext. RW2/A, letter dated 30.5.2018 Ext. RW2/B and another letter dated 6.3.2018 Ext. RW2/C in evidence. In his cross-examination on behalf of respondent No.1, he has admitted that the respondent No.1 had issued award letter to them. He has denied that they had entered into a contract with the respondent No.1. He has further stated that the State of HP had floated tenders for providing para medical staff for Medical Colleges coming up and they participated in the tender and the tender was approved by the Government as per the terms and conditions thereof. He has admitted that the respondent No.1 had given requirement of posts and had not asked to engage any specific person and added that they used to send list of workers out of which the committee of the respondent No.1 used to approve the names of the workers, but they have not produced any such list on record. He has further stated that invoices Ext. RW1/H1 to Ext. RW1/H9 were prepared by the respondent No.2. He has admitted that the lump sum payment of wages of the workers/manpower were paid to the respondent No.2 by the respondent No.1 and the wages were paid to the workers by the respondent No.2. In his cross-examination on behalf of the petitioner, he has admitted that the gardeners deployed with the respondent No.1 used to work under the supervision and control of the respondent No.1. The affidavits of the candidates were prepared by the candidates themselves. He has denied that affidavit Ext. RW2/A was prepared by the then Law Officer of the respondent No.1.

21. This is entire evidence led by all the parties.

22. Thus it is evident from the resume of the evidence of the witnesses on oath the parties discussed supra that the petitioner in his cross-examination himself has admitted that he had executed affidavit Ext. RW2/A. He has stated that he was made to sign blank papers, however, perusal of affidavit duly attested by notary public would show that the same has been signed by the petitioner which fact has been admitted by him and the manner in which affidavit has been signed, it cannot be said that the signatures of the petitioner were obtained on blank papers therefore, the plea of the petitioner that the respondent No.2 had taken his signatures on blank papers and he had not signed the affidavit Ext. RW2/A voluntarily, cannot be accepted.

23. In affidavit Ext. RW2/A, the petitioner has affirmed that he was aware that job was given to him purely on contract and temporary basis for one year and it was transferable all over India. Thus, in view of the admission of the petitioner in affidavit Ext. RW2/A, the petitioner was engaged by the respondent No.2 for one year and he could be transferred by the respondent No.2 anywhere in India. The respondent No.2 has placed on the record award letter dated 6.3.2018 Ext. RW2/C whereby the respondent No.1 had requested the respondent No.2 to provide the gardening services @ Rs.76,200/- per month for one financial year and admittedly in pursuance to the said

letters the gardeners were engaged by respondent No.2 and were deputed in Medical College Chamba for gardening services. The respondent No.2 has also placed on record letter dated 30.5.2019 Ext. RW2/B issued by the respondent No.1 to discontinue the gardeners services and in pursuance to the said letter, the services of the petitioner and other gardeners were terminated w.e.f. 1.6.2019, admittedly after two months of the period of one year for which he was engaged by respondent No.2 to provide gardening services to the respondent No.1 Medical College, Chamba.

24. The respondent No.1 has also placed on record notification dated 10th February, 2016 Ext. RW1/A regarding establishment of Pt. JLN GMC Chamba along-with other colleges at Hamirpur and Nahan, letter dated 16.3.2017 Ext. RW1/B written by the Principal Secretary (Health) to the Govt. of H.P. to the Principal, Pt. Jawahar Lal Nehru Govt. Medical College, Chamba regarding filling up of the various posts of different categories with further directions to outsource sanitation service (not the posts), security services (not the posts), patient care services (not the posts) and the gardening services, letter dated 14.9.2017 Ext. RW1/C written to respondent No.2 to provide manpower as per attached annexures, award letters 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/D to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meetings Ext. RW1/K and Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 regarding discontinuation of patient care service Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O regarding discontinuation of gardening service, letter dated 15.6.2019 Ext. RW1/P regarding Audit Para and Award letter dated 6.4.2018 Ext. RW1/Q regarding gardening service.

25. The perusal of aforesaid documents clearly shows that the State Government had directed the respondent No.1 to outsource the sanitation service, security services, patient care services and gardening services and accordingly tenders were floated and after due process, the respondent No.1 outsourced patient care service, gardening services etc. to the respondent No.2 and the respondent No.2 among others, provided manpower i.e. gardeners to the respondent No.1 including the petitioner for one year. The petitioner had worked with the respondent No.1 w.e.f. 20.3.2018 to 30.5.2019 as outsource gardener and thereafter the services of the petitioner were discontinued/terminated by respondent No.2 as per the request letter dated 30.5.2019 Ext. RW2/B written by the Joint Director of Medical College, Chamba to respondent No.2. These facts have not been disputed even by the petitioner as he himself has admitted that he was engaged by the respondent No.2 and he was paid wages by the respondent No.2 company and he was not ever paid by the respondent No.1 and his services were terminated by the respondent No.2. Hence, it is established on record that there exists no relationship of employer and employee between the petitioner and the respondent No.1; rather he was engaged by the respondent No.2 and he was workman of the respondent No.2.

26. Learned Counsel for the petitioner has submitted that though the petitioner was engaged by respondent No.2 yet he had engaged him for respondent No.1 and the petitioner worked under the direct control and supervision of the respondent No.1 and therefore the petitioner was the workman/employee of the respondent No.1. Hence services of the petitioner could have been terminated by the respondent No.1 as per the provisions of Section 25-F of the I.D. Act after serving one month's notice to him or making payment of one month's wages in lieu of notice period and retrenchment compensation, but respondent No.1 did not terminated the services of the petitioner in accordance with the provisions of Section 25-F of the I.D. Act and therefore termination of the services of the petitioner being illegal be set aside and the respondent No.1 be directed to reinstate him as gardener.

27. There is no substance in the contention of the learned counsel for the petitioner. Hon'ble Supreme Court in **Balwant Rai Saluja & Anr. Vs. AIR India (Ltd.) & Ors.** 2014 LawSuit(SC) 628 in para No.61 has held as under:—

[61] Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia, (i) who appoints the workers; (ii) who pays the salary/remuneration; (iii) who has the authority to dismiss; (iv) who can take disciplinary action; (v) whether there is continuity of service; and (vi) extent of control and supervision, i.e. whether there exists complete control and supervision. As regards, extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case, the International Airport Authority of India case and the NALCO case.

28. In the case in hand, as has been observed above, the petitioner was appointed by the respondent No.2 and he was paid salary/remuneration by the respondent No.2 and it is the respondent No.2, who has terminated his services and thus authority to dismiss the petitioner was with the respondent No.2 and respondent No.2 only was competent to take disciplinary action against the petitioner and there was no continuity in service and as per the admission the petitioner, they used to work under the supervision and instructions of the respondent No.2 and thus the respondent No.2 was having complete control and supervision over the work of the petitioner. Hence in view of the law laid down by the Hon'ble Supreme Court in above said case, the petitioner was employee of the respondent No.2 and there was no relationship of employer and employee between respondent No.1 and the petitioner and thus the petitioner was not employee of the respondent No.1.

29. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr., 2019 LLR 1109** has held that where the workman fails to establish relationship of employee and employer in between him and the respondent, he is not entitled to any relief. It was held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant

between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

30. In the case in hand, as has been observed above, there is no relationship of employer and employee between the petitioner and respondent No.1; rather he was employee/workman of the respondent No.2, who has engaged him for one year as per affidavit Ext.PW2/A executed by the petitioner and the petitioner has not claimed any relief against respondent No.2; rather he has prayed that the respondent department i.e. respondent No.1 be directed to re-engage him in the same capacity. The respondent No.2 is no more providing manpower to the respondent No.2, therefore, in such set of circumstances, the respondent No.1 or the respondent No.2 cannot be ordered to re-engage the petitioner as gardener in Medical College & Hospital Chamba as claimed by the petitioner and the petitioner is not entitled to any relief. Hence issues No.1 and 2 are decided against the petitioner and issue No.5 is decided favour of the respondents and are answered as such.

Issue No. 3

31. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable and the petitioner has no locus standi to file the present petition. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No. 4

32. In view of findings of issues No.1 and 2 above, the petitioner has failed to prove cause of action. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Relief

33. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

34. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 39/2020

Date of Institution : 02.3.2020

Date of Decision : 10.04.2024

Shri Ramesh Kumar s/o Shri Hardev, r/o Village Pargola, P.O. Janghi, Tehsil & District
Chamba, H.P.*Petitioner* .

Versus

1. The Principal, Pt. JLNMC & Hospital Chamba, Tehsil and District Chamba, H.P.

2. Managing Director, IL&FS Human Resources Ltd. Pt. JLNMC/26 Bhasula House, Om
Vihar, 34 New Delhi-110059.

.....*Respondents* .

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. S.K. Thakur, Ld. Adv.

For the respondent No.1 : Sh. Jitender Kumar, Ld. ADA

For the respondent No.2 : Ms. HimakshiGautam, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Ramesh Kumar S/O Shri Hardev, R/O Village Pargola, P.O. Janghi, Tehsil & District Chamba, H.P. by (i) the Principal, Government PanditJawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL&FS Human Resources Limited Government PanditJawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from above employers?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage gardener by the respondent No.2 in Pt. Jwahar Lal Nehru Govt. Medical College Chamba (hereinafter in short is referred to as Medical College Chamba) on 20.3.2018 and he worked upto 30.5.2019. His services were terminated on 1.6.2019 without following the provisions of the I.D. Act and without giving prior notice to him. After termination of his services, he approached the respondent several times to re-engage him but the respondent did not pay any heed to his requests. Sufficient work was available with the respondent. The respondent terminated his services in violation of provisions of

Section 25 of the I.D. Act. It has thus been prayed that his termination be set aside and the respondent department be directed to re-engage him in the same capacity. Hence this petition.

4. The petition has been resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has been admitted that the petitioner was working as gardener in the Medical College Chamba and he was appointed by the respondent No.2. It has been averred that when the Government permitted to run Medical College at Chamba in the name of Pandit Jawahar Lal Nehru Medical College (PJLNC) & Hospital, Chamba, they required staff for smooth working of institution as per sanctioned letter from the Special Secretary (Health), to the Government of H.P. Thereafter, they have decided to hire the staff from the firm/company, which used to supply manpower on outsource basis. After due process, tender was awarded to respondent No.2 to provide manpower as per requirement of the institution. The petitioner was not engaged by them but by the respondent No.2. It has been admitted that the services of the petitioner were terminated w.e.f. 1.6.2019. It has been averred that the then Principal of PJLNC & Hospital Chamba held meeting on 1.12.2018 for reorganization of outsourcing security service and sanitation service in Medical College Chamba. After discussion, the committee decided to hire the staff on outsource basis as per requirement of the work. The Principal of Medical College Chamba accordingly directed the respondent No.2 to provide manpower as per list sanctioned by the joint committee on 1.12.2018. Thereafter, the respondent No.2, provided the manpower as per list and respondent No.1 has nothing to do with its internal matter. The petitioner was neither their employee nor had he entered into any contract with the respondent No.1, so question of issuance of prior notice of termination of services of the petitioner did not arise. Moreover, the respondent No.2 has not been providing the manpower on outsource basis these days and therefore the tender has been awarded to another company which is providing the manpower on outsource basis to them. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has been resisted by the respondent No.2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has admitted that the petitioner was engaged as gardener in Medical College Chamba through him and services of the petitioner were terminated on 1.6.2019. It has been averred that on the request of respondent No.1, he has engaged the petitioner along-with other workmen as gardeners to provide service in Medical College, Chamba for one year. At the time of engagement of the petitioner, he had voluntarily executed an affidavit affirming that he was given job on his request purely on contractual and temporary basis for one year and it was transferable all over India and it could be terminated, if so required and therefore there was no need to follow the provisions of the I.D. Act or to serve notice upon the petitioner prior to termination of his services as the duration of his job was for one year only. He is only supplying the manpower on demand. When the respondent No.1 asked to supply manpower, he supplied the same and when the respondent No.1 intimated that he did not require the services of the gardeners, he terminated/disengaged the petitioner for which he was competent in view of affidavit executed by the petitioner. After denying other allegations, it has been prayed that the petition be dismissed.

6. In rejoinders filed by the petitioner, the averments made in the petition have been reasserted after refuting those of the replies contrary to the averments made in the claim petition.

7. On the pleadings of the parties, following issues were framed on 23.12.2022:—

1. Whether termination of the services of petitioner by the respondents w.e.f. 01.06.2019 is/was illegal and unjustified as alleged? ..OPP.

2. If issue no.1 is proved in affirmative to what services benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable as alleged? OPR 1&2.
4. Whether the petitioner has no locus standi to file the present case as alleged? ..OPR1&2.
5. Whether the petitioner has no cause of action to file the present claim as alleged? ..OPR1&2.
6. Whether the petitioner has not come to the court with clean hands and concealed the true and material facts from the court as alleged? ..OPR1&2.

Relief.

8. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

9. On the other hand, Principal Dr. Sunder Singh Dogra appeared as RW1 and closed the evidence. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2 and closed the evidence.

10. I have heard the Learned Counsel for the parties and gone through the case file carefully.

11. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : Yes

Issue No.5 : Yes

Issue No.6 : No

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

12. Both the issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

13. It is not in dispute between the parties that the petitioner was engaged as gardener by the respondent No.2 in Medical College Chamba on 20.3.2018 and he worked upto 30.5.2019 and his services were terminated w.e.f. 1.6.2019.

14. The petitioner has claimed that his services were terminated by the respondents without serving any notice upon him and that he, after termination of his services, approached respondent several times to re-engage him but the respondent has not paid any heed to his requests and thus has prayed that his termination order be set aside and respondent be directed to re-engage him in the department in the same capacity. The petitioner thus has claimed that the respondent No.1 be directed to re-engage him as gardener in the Medical College, Chamba.

15. On the other hand, the respondent No.1 has claimed that the petitioner was not engaged by him but he was engaged by respondent No.2 to whom tender was awarded to provide manpower as per requirement.. Thus, the respondent No.1 has claimed that the petitioner was the employee/workman of the respondent No.2 who had engaged him and his services were terminated by respondent No.2 and therefore there was no necessity to serve any notice upon him and since the respondent No.2 has not been providing manpower on outsource basis these days, the work has been awarded to another company.

16. The respondent No.2 has also admitted that petitioner along-with other workmen was engaged by him on the request of the respondent No.1 as gardeners to provide services in Medical College Chamba. It has been averred that the petitioner was engaged for one year only qua which he had executed an affidavit voluntarily and that the respondent No.1 had intimated that he did not require services of the gardeners and therefore, he terminated the services of the petitioner w.e.f. 1.6.2019.

17. Thus it is not in dispute between the parties that the petitioner was engaged by the respondent No.2 to whom the tender was awarded by the respondent No.1 to supply the manpower for one year.

18. The petitioner Ramesh Kumar in substantiation of his claim, appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He categorically has stated that his services were terminated w.e.f. 1.6.2019 without giving any prior notice and without following the provisions of the I.D. Act. He has not sworn any affidavit. As matter of fact, his signatures were obtained on number of written and blank papers and forms at the time of his joining, on the pretext that those papers were mere formality and required to complete the record. If his signatures were obtained on so-called affidavit by misrepresentation and fraudulently, the same is not binding upon him. He has also tendered identity card Ext. PW1/B and bank account pass book Ext. PW1/C in evidence. In his cross-examination on behalf of respondent No.1, he categorically has admitted that he was engaged through respondent No.2. He has also admitted that wages were paid to him by the respondent No.2 and no amount was ever paid to him by the respondent No.1. He did not know that it was internal matter of the respondent No.2 Company as to which worker was to be deputed. He also did not know that there was agreement/contract between respondents No.1 and 2 to engage the workers for a period of one year only. He has further stated that interviews were taken by the Manager of the respondent No.2 and the College had not issued any advertisement. He has also admitted that they used to work under the supervision and instructions of the respondent No.2. He has also admitted that now RK Manpower Company is providing labour to the respondent No.1. He has also admitted that no identity card was ever issued in his favour by the Medical College (respondent No.1). In the cross-examination on behalf of respondent No.2, he has admitted that the company had taken affidavit from them and then added that they were made to sign blank papers. But he has admitted his signatures on the affidavit.

19. On the other hand, present Principal, Dr. Sunder Singh Dogra appeared as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered various letters dated 10.2.2016, 16.3.2017, 14.9.2017,

14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/A to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meeting dated 11.12.2018 Ext. RW1/K, minutes of meeting dated 5.3.2019 Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 bearing No.3184-89 Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O, letter dated 15.6.2019 Ext. RW1/P and letter dated 6.4.2018 Ext. RW1/Q in evidence. In his cross-examination on behalf of respondent No.2, he has admitted that the manpower for gardening services were provided to the respondent No.1 as per letter dated 6.3.2018 and their services were terminated as per letter dated 30.5.2019. In his cross-examination on behalf of the petitioner, he has stated that he was posted as Principal in Pt. JLMGMC Hospital since 7.6.2023 and he was not posted in the college when the petitioner was engaged in the year 2018. He did not know that Ms. Pooja was posted as Law Officer in Medical College Chamba in the year 2018. He has denied that the petitioner was working under the control and supervision of the respondent No.1. He has admitted that they had not issued any notice to the petitioner and added that he was not their employee.

20. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2. He has also filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered affidavit of the petitioner Ext. RW2/A, letter dated 30.5.2019 Ext. RW2/B and another letter dated 06.03.2018 Ext. RW2/C in evidence. In his cross-examination on behalf of respondent No.1, he has admitted that the respondent No.1 had issued award letter to them. He has denied that they had entered into a contract with the respondent No.1. He has further stated that the State of HP had floated tenders for providing para medical staff for Medical Colleges coming up and they participated in the tender and the tender was approved by the Government as per the terms and conditions thereof. He has admitted that the respondent No.1 had given requirement of posts and had not asked to engage any specific person and added that they used to send list of workers out of which the committee of the respondent No.1 used to approve the names of the workers, but they have not produced any such list on record. He has further stated that invoices Ext. RW1/H1 to Ext. RW1/H9 were prepared by the respondent No.2. He has admitted that the lump sum payment of wages of the workers/manpower were paid to the respondent No.2 by the respondent No.1 and the wages were paid to the workers by the respondent No.2. In his cross-examination on behalf of the petitioner, he has admitted that the gardeners deployed with the respondent No.1 used to work under the supervision and control of the respondent No.1. The affidavits of the candidates were prepared by the candidates themselves. He has denied that affidavit Ext. RW2/A was prepared by the then Law Officer of the respondent No.1.

21. This is entire evidence led by all the parties.

22. Thus it is evident from the resume of the evidence of the witnesses on oath the parties discussed supra that the petitioner in his cross-examination himself has admitted that he had executed affidavit Ext. RW2/A. He has stated that he was made to sign blank papers, however, perusal of affidavit duly attested by notary public would show that the same has been signed by the petitioner which fact has been admitted by him and the manner in which affidavit has been signed, it cannot be said that the signatures of the petitioner were obtained on blank papers therefore, the plea of the petitioner that the respondent No.2 had taken his signatures on blank papers and he had not signed the affidavit Ext. RW2/A voluntarily, cannot be accepted.

23. In affidavit Ext. RW2/A, the petitioner has affirmed that he was aware that job was given to him purely on contract and temporary basis for one year and it was transferable all over India. Thus, in view of the admission of the petitioner in affidavit Ext. RW2/A, the petitioner was engaged by the respondent No.2 for one year and he could be transferred by the respondent No.2 anywhere in India. The respondent No.2 has placed on the record award letter dated 6.3.2018 Ext.

RW2/C whereby the respondent No.1 had requested the respondent No.2 to provide the gardening services @ Rs.76,200/- per month for one financial year and admittedly in pursuance to the said letters the gardeners were engaged by respondent No.2 and were deputed in Medical College Chamba for gardening services. The respondent No.2 has also placed on record letter dated 30.5.2019 Ext. RW2/B issued by the respondent No.1 to discontinue the gardeners services and in pursuance to the said letter, the services of the petitioner and other gardeners were terminated w.e.f. 1.6.2019, admittedly after two months of the period of one year for which he was engaged by respondent No.2 to provide gardening services to the respondent No.1 Medical College, Chamba.

24. The respondent No.1 has also placed on record notification dated 10th February, 2016 Ext. RW1/A regarding establishment of Pt. JLN GMC Chamba along-with other colleges at Hamirpur and Nahan, letter dated 16.3.2017 Ext. RW1/B written by the Principal Secretary (Health) to the Govt. of H.P. to the Principal, Pt. Jawahar Lal Nehru Govt. Medical College, Chamba regarding filling up of the various posts of different categories with further directions to outsource sanitation service (not the posts), security services (not the posts), patient care services (not the posts) and the gardening services, letter dated 14.9.2017 Ext. RW1/C written to respondent No.2 to provide manpower as per attached annexures, award letters 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/D to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meetings Ext. RW1/K and Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 regarding discontinuation of patient care service Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O regarding discontinuation of gardening service, letter dated 15.6.2019 Ext. RW1/P regarding Audit Para and Award letter dated 6.4.2018 Ext. RW1/Q regarding gardening service.

25. The perusal of aforesaid documents clearly shows that the State Government had directed the respondent No.1 to outsource the sanitation service, security services, patient care services and gardening services and accordingly tenders were floated and after due process, the respondent No.1 outsourced patient care service, gardening services etc. to the respondent No.2 and the respondent No.2 among others, provided manpower i.e. gardeners to the respondent No.1 including the petitioner for one year. The petitioner had worked with the respondent No.1 w.e.f. 20.3.2018 to 30.5.2019 as outsource gardener and thereafter the services of the petitioner were discontinued/terminated by respondent No.2 as per the request letter dated 30.5.2019 Ext. RW2/B written by the Joint Director of Medical College, Chamba to respondent No.2. These facts have not been disputed even by the petitioner as he himself has admitted that he was engaged by the respondent No.2 and he was paid wages by the respondent No.2 company and he was not ever paid by the respondent No.1 and his services were terminated by the respondent No.2. Hence, it is established on record that there exists no relationship of employer and employee between the petitioner and the respondent No.1; rather he was engaged by the respondent No.2 and he was workman of the respondent No.2.

26. Learned Counsel for the petitioner has submitted that though the petitioner was engaged by respondent No.2 yet he had engaged him for respondent No.1 and the petitioner worked under the direct control and supervision of the respondent No.1 and therefore the petitioner was the workman/employee of the respondent No.1. Hence services of the petitioner could have been terminated by the respondent No.1 as per the provisions of Section 25-F of the I.D. Act after serving one month's notice to him or making payment of one month's wages in lieu of notice period and retrenchment compensation, but respondent No.1 did not terminated the services of the petitioner in accordance with the provisions of Section 25-F of the I.D. Act and therefore termination of the services of the petitioner being illegal be set aside and the respondent No.1 be directed to reinstate him as gardener.

27. There is no substance in the contention of the learned counsel for the petitioner. Hon'ble Supreme Court in **Balwant Rai Saluja & Anr. Vs. AIR India (Ltd.) & Ors. 2014 LawSuit(SC) 628** in para No.61 has held as under:—

[61] Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia, (i) who appoints the workers; (ii) who pays the salary/remuneration; (iii) who has the authority to dismiss; (iv) who can take disciplinary action; (v) whether there is continuity of service; and (vi) extent of control and supervision, i.e. whether there exists complete control and supervision. As regards, extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case, the International Airport Authority of India case and the NALCO case.

28. In the case in hand, as has been observed above, the petitioner was appointed by the respondent No.2 and he was paid salary/remuneration by the respondent No.2 and it is the respondent No.2, who has terminated his services and thus authority to dismiss the petitioner was with the respondent No.2 and respondent No.2 only was competent to take disciplinary action against the petitioner and there was no continuity in service and as per the admission the petitioner they used to work under the supervision and instructions of the respondent No.2 and thus the respondent No.2 was having complete control and supervision over the work of the petitioner. Hence in view of the law laid down by the Hon'ble Supreme Court in above said case, the petitioner was employee of the respondent No.2 and there was no relationship of employer and employee between respondent No.1 and the petitioner and thus the petitioner was not employee of the respondent No.1.

29. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr., 2019 LLR 1109** has held that where the workman fails to establish relationship of employee and employer in between him and the respondent, he is not entitled to any relief. It was held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act,

1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

30. In the case in hand, as has been observed above, there is no relationship of employer and employee between the petitioner and respondent No.1; rather he was employee/workman of the respondent No.2, who has engaged him for one year as per affidavit Ext.PW2/A executed by the petitioner and the petitioner has not claimed any relief against respondent No.2; rather he has prayed that the respondent department i.e. respondent No.1 be directed to re-engage him in the same capacity. The respondent No.2 is no more providing manpower to the respondent No.2, therefore, in such set of circumstances, the respondent No.1 or the respondent No.2 cannot be ordered to re-engage the petitioner as gardener in Medical College & Hospital Chamba as claimed by the petitioner and the petitioner is not entitled to any relief. Hence both the issues are decided against the petitioner and are answered in negative.

Issue No.3

31. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No.4

32. In view of findings of issues No.1 and 2 above, the petitioner has no locus standi to file present petition. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No.5

33. In view of findings of issues No.1 and 2 above, the petitioner has failed to prove cause of action. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No.6

34. Neither any evidence has been led nor any arguments were addressed as to how the petitioner has not come to the court with clean hands and what material facts have been concealed by him. Hence the respondents have failed to prove the same. Consequently, this issue is decided against the respondents and is answered in negative.

Relief

35. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

36. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 43/2020

Date of Institution : 02.3.2020

Date of Decision : 10.04.2024

Shri Sonu s/o Shri Kiso, r/o Village Bangotu, P.O. Bandla, Tehsil & District Chamba, H.P.
.....*Petitioner.*

Versus

1. The Principal, Pt. JLNMC & Hospital Chamba, Tehsil and District Chamba, H.P.
2. Managing Director, IL&FS Human Resources Ltd. Pt. JLNMC/26 Bhasula House, Om Vihar, 34 New Delhi-110059.
.....*Respondents.*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. S.K. Thakur, Ld. Adv.

For the respondent No.1 : Sh. Jitender Kumar, Ld. ADA

For the respondent No.2 : Ms. Himakshi Gautam, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, for short (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of services of Shri Sonu S/O Shri Kiso, R/O Village Bangotu, P.O. Bandla, Tehsil & District Chamba, H.P. by (i) the Principal, Government PanditJawahar Lal Nehru Medical College & Hospital, Chamba, District Chamba, H.P. (ii) the Director, M/S IL&FS Human Resources Limited Government Pandit Jawahar Lal Nehru Medical College & Hospital Chamba, District Chamba, H.P., w.e.f. 01-06-2019, without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If

not, what amount of back wages, seniority, compensation and past service benefits the above worker is entitled to from above employers?"

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage gardener by the respondent No.2 in Pt. Jawahar Lal Nehru Govt. Medical College Chamba (hereinafter in short is referred to as Medical College Chamba) on 20.3.2018 and he worked upto 30.5.2019. His services were terminated on 1.6.2019 without following the provisions of the I.D. Act and without giving prior notice to him. After termination of his services, he approached the respondent several times to re-engage him but the respondent did not pay any heed to his requests. Sufficient work was available with the respondent. The respondent terminated his services in violation of provisions of Section 25 of the I.D. Act. It has thus been prayed that his termination be set aside and the respondent department be directed to re-engage him in the same capacity. Hence this petition.

4. The petition has been resisted by the respondent No.1 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has been admitted that the petitioner was working as gardener in the Medical College Chamba and he was appointed by the respondent No.2. It has been averred that when the Government permitted to run Medical College at Chamba in the name of Pandit Jawahar Lal Nehru Medical College (PJLNC) & Hospital, Chamba, they required staff for smooth working of institution as per sanctioned letter from the Special Secretary (Health), to the Government of H.P. Thereafter, they have decided to hire the staff from the firm/company, which used to supply manpower on outsource basis. After due process, tender was awarded to respondent No.2 to provide manpower as per requirement of the institution. The petitioner was not engaged by them but by the respondent No.2. It has been admitted that the services of the petitioner were terminated w.e.f. 1.6.2019. It has been averred that the then Principal of JLNMC & Hospital Chamba held meeting on 1.12.2018 for reorganization of outsourcing security service and sanitation service in Medical College Chamba. After discussion, the committee decided to hire the staff on outsource basis as per requirement of the work. The Principal of Medical College Chamba accordingly directed the respondent No.2 to provide manpower as per list sanctioned by the joint committee on 1.12.2018. Thereafter, the respondent No.2, provided the manpower as per list and respondent No.1 has nothing to do with its internal matter. The petitioner was neither their employee nor had he entered into any contract with the respondent No.1, so question of issuance of prior notice of termination of services of the petitioner did not arise. Moreover, the respondent No.2 has not been providing the manpower on outsource basis these days and therefore the tender has been awarded to another company which is providing the manpower on outsource basis to them. After denying other allegations, it has been prayed that the petition be dismissed.

5. The petition has been resisted by the respondent No.2 by filing reply taking preliminary objections qua maintainability, locus standi, cause of action and suppression of true and material facts. On merits, it has admitted that the petitioner was engaged as gardener in Medical College Chamba through him and services of the petitioner were terminated on 1.6.2019. It has been averred that on the request of respondent No.1, he has engaged the petitioner along-with other workmen as gardeners to provide service in Medical College, Chamba for one year. At the time of engagement of the petitioner, he had voluntarily executed an affidavit affirming that he was given job on his request purely on contractual and temporary basis for one year and it was transferable all over India and it could be terminated, if so required and therefore there was no need to follow the provisions of the I.D. Act or to serve notice upon the petitioner prior to termination of his services as the duration of his job was for one year only. He is only supplying the manpower on demand. When the respondent No.1 asked to supply manpower, he supplied the same and when the

respondent No.1 intimated that he did not require the services of the gardeners, he terminated/disengaged the petitioner for which he was competent in view of affidavit executed by the petitioner. After denying other allegations, it has been prayed that the petition be dismissed.

6. On the pleadings of the parties, following issues were framed on 23.12.2022:—

1. Whether termination of the services of petitioner by the respondents w.e.f 01.06.2019 is/was illegal and unjustified as alleged? ..OPP.
2. If issue no.1 is proved in affirmative to what services benefits the petitioner is entitled to? ..OPP.
3. Whether the claim petition is not maintainable as alleged? ..OPR 1&2.
4. Whether the petitioner has no locus standi to file the present case as alleged? ..OPR1&2.
5. Whether the petitioner has no cause of action to file the present claim as alleged? ..OPR1&2.
6. Whether the petitioner has not come to the court with clean hands and concealed the true and material facts from the court as alleged? ..OPR1&2.

Relief.

7. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

8. On the other hand, Principal Dr. Sunder Singh Dogra appeared as RW1 and closed the evidence. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : Yes

Issue No.5 : Yes

Issue No.6 : No

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS**Issues No. 1 and 2**

11. Both the issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. It is not in dispute between the parties that the petitioner was engaged as gardener by the respondent No.2 in Medical College Chamba on 20.3.2018 and he worked upto 30.5.2019 and his services were terminated w.e.f. 1.6.2019.

13. The petitioner has claimed that his services were terminated by the respondents without serving any notice upon him and that he, after termination of his services, approached respondent several times to re-engage him but the respondent has not paid any heed to his requests and thus has prayed that his termination order be set aside and respondent be directed to re-engage him in the department in the same capacity. The petitioner thus has claimed that the respondent No.1 be directed to re-engage him as gardener in the Medical College, Chamba.

14. On the other hand, the respondent No.1 has claimed that the petitioner was not engaged by him but he was engaged by respondent No.2 to whom tender was awarded to provide manpower as per requirement.. Thus, the respondent No.1 has claimed that the petitioner was the employee/workman of the respondent No.2 who had engaged him and his services were terminated by respondent No.2 and therefore there was no necessity to serve any notice upon him and since the respondent No.2 has not been providing manpower on outsource basis these days, the work has been awarded to another company.

15. The respondent No.2 has also admitted that petitioner along-with other workmen was engaged by him on the request of the respondent No.1 as gardeners to provide services in Medical College Chamba. It has been averred that the petitioner was engaged for one year only qua which he had executed an affidavit voluntarily and that the respondent No.1 had intimated that he did not require services of the gardeners and therefore, he terminated the services of the petitioner w.e.f. 1.6.2019.

16. Thus it is not in dispute between the parties that the petitioner was engaged by the respondent No.2 to whom the tender was awarded by the respondent No.1 to supply the manpower for one year.

17. The petitioner Sonu in substantiation of his claim, appeared as PW1 and has filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He categorically has stated that his services were terminated w.e.f. 1.6.2019 without giving any prior notice and without following the provisions of the I.D. Act. He has not sworn any affidavit. As matter of fact, his signatures were obtained on number of written and blank papers and forms at the time of his joining, on the pretext that those papers were mere formality and required to complete the record. If his signatures were obtained on so-called affidavit by misrepresentation and fraudulently, the same is not binding upon him. He has also tendered identity card Ext. PW1/B and bank account pass book Ext. PW1/C in evidence. In his cross-examination on behalf of respondent No.1, he categorically has admitted that he was engaged through respondent No.2. He has also admitted that wages were paid to him by the respondent No.2 and no amount was ever paid to him by the respondent No.1. He did not know that it was internal matter of the respondent No.2 Company as to which worker was to be deputed. He also did not know that there was agreement/contract between respondents No.1 and 2 to engage the workers for a period of one year only. He has further stated that interviews were taken by the Manager of the respondent No.2 and the College had not issued any advertisement. He has also admitted that they used to work

under the supervision and instructions of the respondent No.2. He has also admitted that now RK Manpower Company is providing labour to the respondent No.1. He has also admitted that no identity card was ever issued in his favour by the Medical College (respondent No.1). In the cross-examination on behalf of respondent No.2, he has admitted that the company had taken affidavit from them and then added that they were made to sign blank papers. But he has admitted his signatures on the affidavit.

18. On the other hand, present Principal, Dr. Sunder Singh Dogra appeared as RW1, who has filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered various letters dated 10.2.2016, 16.3.2017, 14.9.2017, 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/A to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meeting dated 11.12.2018 Ext. RW1/K, minutes of meeting dated 5.3.2019 Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 bearing No.3184-89 Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O, letter dated 15.6.2019 Ext. RW1/P and letter dated 6.4.2018 Ext. RW1/Q in evidence. In his cross-examination on behalf of respondent No.2, he has admitted that the manpower for gardening services were provided to the respondent No.1 as per letter dated 6.3.2018 and their services were terminated as per letter dated 30.5.2019. In his cross-examination on behalf of the petitioner, he has stated that he was posted as Principal in Pt. JLMGMC Hospital since 7.6.2023 and he was not posted in the college when the petitioner was engaged in the year 2018. He did not know that Ms. Pooja was posted as Law Officer in Medical College Chamba in the year 2018. He has denied that the petitioner was working under the control and supervision of the respondent No.1. He has admitted that they had not issued any notice to the petitioner and added that he was not their employee.

19. The respondent No.2 has examined Chief Executive Officer Gopal Krishan as RW2. He has also filed affidavit in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered affidavit of the petitioner Ext. RW2/A, letter dated 30.5.2019 Ext. RW2/B and another letter dated 6.3.2018 Ext. RW2/C in evidence. In his cross-examination on behalf of respondent No.1, he has admitted that the respondent No.1 had issued award letter to them. He has denied that they had entered into a contract with the respondent No.1. He has further stated that the State of HP had floated tenders for providing para medical staff for Medical Colleges coming up and they participated in the tender and the tender was approved by the Government as per the terms and conditions thereof. He has admitted that the respondent No.1 had given requirement of posts and had not asked to engage any specific person and added that they used to send list of workers out of which the committee of the respondent No.1 used to approve the names of the workers, but they have not produced any such list on record. He has further stated that invoices Ext. RW1/H1 to Ext. RW1/H9 were prepared by the respondent No.2. He has admitted that the lump sum payment of wages of the workers/manpower were paid to the respondent No.2 by the respondent No.1 and the wages were paid to the workers by the respondent No.2. In his cross-examination on behalf of the petitioner, he has admitted that the gardeners deployed with the respondent No.1 used to work under the supervision and control of the respondent No.1. The affidavits of the candidates were prepared by the candidates themselves. He has denied that affidavit Ext. RW2/A was prepared by the then Law Officer of the respondent No.1.

20. This is entire evidence led by all the parties.

21. Thus it is evident from the resume of the evidence of the witnesses on oath the parties discussed supra that the petitioner in his cross-examination himself has admitted that he had executed affidavit Ext. RW2/A. He has stated that he was made to sign blank papers, however, perusal of affidavit duly attested by notary public would show that the same has been signed by the

petitioner which fact has been admitted by him and the manner in which affidavit has been signed, it cannot be said that the signatures of the petitioner were obtained on blank papers therefore, the plea of the petitioner that the respondent No.2 had taken his signatures on blank papers and he had not signed the affidavit Ext. RW2/A voluntarily, cannot be accepted.

22. In affidavit Ext. RW2/A, the petitioner has affirmed that he was aware that job was given to him purely on contract and temporary basis for one year and it was transferable all over India. Thus, in view of the admission of the petitioner in affidavit Ext. RW2/A, the petitioner was engaged by the respondent No.2 for one year and he could be transferred by the respondent No.2 anywhere in India. The respondent No.2 has placed on the record award letter dated 6.3.2018 Ext. RW2/C whereby the respondent No.1 had requested the respondent No.2 to provide the gardening services @ Rs.76,200/- per month for one financial year and admittedly in pursuance to the said letters the gardeners were engaged by respondent No.2 and were deputed in Medical College Chamba for gardening services. The respondent No.2 has also placed on record letter dated 30.5.2019 Ext. RW2/B issued by the respondent No.1 to discontinue the gardeners services and in pursuance to the said letter, the services of the petitioner and other gardeners were terminated w.e.f. 1.6.2019, admittedly after two months of the period of one year for which he was engaged by respondent No.2 to provide gardening services to the respondent No.1 Medical College, Chamba.

23. The respondent No.1 has also placed on record notification dated 10th February, 2016 Ext. RW1/A regarding establishment of Pt. JLN GMC Chamba along-with other colleges at Hamirpur and Nahan, letter dated 16.3.2017 Ext. RW1/B written by the Principal Secretary (Health) to the Govt. of H.P. to the Principal, Pt. Jawahar Lal Nehru Govt. Medical College, Chamba regarding filling up of the various posts of different categories with further directions to outsource sanitation service (not the posts), security services (not the posts), patient care services (not the posts) and the gardening services, letter dated 14.9.2017 Ext. RW1/C written to respondent No.2 to provide manpower as per attached annexures, award letters 14.9.2017, 2.1.2018, 1.2.2018, 6.3.2018 Ext. RW1/D to Ext. RW1/G, invoices for the months of January, February, April, May, July, December, 2018 Ext. RW1/H1 to Ext. RW1/H6, another invoices for the months of March, April and May, 2019 Ext. RW1/H7 to Ext. RW1/H9, copies of audit para objections Ext. RW1/J, minutes of meetings Ext. RW1/K and Ext. RW1/L, letter dated 12.3.2019 Ext. RW1/M, letter dated 30.5.2019 regarding discontinuation of patient care service Ext. RW1/N, letter dated 30.5.2019 Ext. RW1/O regarding discontinuation of gardening service, letter dated 15.6.2019 Ext. RW1/P regarding Audit Para and Award letter dated 6.4.2018 Ext. RW1/Q regarding gardening service.

24. The perusal of aforesaid documents clearly shows that the State Government had directed the respondent No.1 to outsource the sanitation service, security services, patient care services and gardening services and accordingly tenders were floated and after due process, the respondent No.1 outsourced patient care service, gardening services etc. to the respondent No.2 and the respondent No.2 among others, provided manpower i.e. gardeners to the respondent No.1 including the petitioner for one year. The petitioner had worked with the respondent No.1 w.e.f. 20.3.2018 to 30.5.2019 as outsource gardener and thereafter the services of the petitioner were discontinued/terminated by respondent No.2 as per the request letter dated 30.5.2019 Ext. RW2/B written by the Joint Director of Medical College, Chamba to respondent No.2. These facts have not been disputed even by the petitioner as he himself has admitted that he was engaged by the respondent No.2 and he was paid wages by the respondent No.2 company and he was not ever paid by the respondent No.1 and his services were terminated by the respondent No.2. Hence, it is established on record that there exists no relationship of employer and employee between the petitioner and the respondent No.1; rather he was engaged by the respondent No.2 and he was workman of the respondent No.2.

25. Learned Counsel for the petitioner has submitted that though the petitioner was engaged by respondent No.2 yet he had engaged him for respondent No.1 and the petitioner worked under the direct control and supervision of the respondent No.1 and therefore the petitioner was the workman/employee of the respondent No.1. Hence services of the petitioner could have been terminated by the respondent No.1 as per the provisions of Section 25-F of the I.D. Act after serving one month's notice to him or making payment of one month's wages in lieu of notice period and retrenchment compensation, but respondent No.1 did not terminate the services of the petitioner in accordance with the provisions of Section 25-F of the I.D. Act and therefore termination of the services of the petitioner being illegal be set aside and the respondent No.1 be directed to reinstate him as gardener.

26. There is no substance in the contention of the learned counsel for the petitioner. Hon'ble Supreme Court in **Balwant Rai Saluja & Anr. Vs. AIR India (Ltd.) & Ors. 2014 LawSuit(SC) 628** in para No.61 has held as under:—

[61] Thus, it can be concluded that the relevant factors to be taken into consideration to establish an employer-employee relationship would include, inter alia, (i) who appoints the workers; (ii) who pays the salary/remuneration; (iii) who has the authority to dismiss; (iv) who can take disciplinary action; (v) whether there is continuity of service; and (vi) extent of control and supervision, i.e. whether there exists complete control and supervision. As regards, extent of control and supervision, we have already taken note of the observations in Bengal Nagpur Cotton Mills case, the International Airport Authority of India case and the NALCO case.

27. In the case in hand, as has been observed above, the petitioner was appointed by the respondent No.2 and he was paid salary/remuneration by the respondent No.2 and it is the respondent No.2, who has terminated his services and thus authority to dismiss the petitioner was with the respondent No.2 and respondent No.2 only was competent to take disciplinary action against the petitioner and there was no continuity in service and as per the admission the petitioner, they used to work under the supervision and instructions of the respondent No.2 and thus the respondent No.2 was having complete control and supervision over the work of the petitioner. Hence in view of the law laid down by the Hon'ble Supreme Court in above said case, the petitioner was employee of the respondent No.2 and there was no relationship of employer and employee between respondent No.1 and the petitioner and thus the petitioner was not employee of the respondent No.1.

28. Our Hon'ble High Court in **Rakesh Sharma vs. Indian Oil Corporation and Anr., 2019 LLR 1109** has held that where the workman fails to establish relationship of employee and employer in between him and the respondent, he is not entitled to any relief. It was held as under:—

[9] The moot issue which this Court is to adjudicate is whether the findings of fact returned by learned Court below that the workman had failed to prove that there existed any relationship of employee and employer between him and the management is a perverse finding so returned by the learned Court below or said finding is duly borne out from the record of the case?

[10] A perusal of the record demonstrates that there is not even an iota of evidence on record placed by the workman to demonstrate that there was a relationship of employee and employer between him and respondent No. 1. Except the bald assertion of the workman that he was an employee/workman of the respondent-Corporation, there is no material on record to substantiate this fact. Reliance placed on the log books and EST Identity Card, in my

considered view, is of no relevance because it is not in dispute that the workman was in fact working in the Oil Depot of the respondent-Corporation, however, the fact remains that he was not working in his capacity as a workman engaged by the respondent Corporation, but was working as a workman, who was engaged by M/s U.K. Electrical Limited.

[11] Learned Counsel for the petitioner has argued that even if it is assumed that the petitioner was engaged by M/s U.K. Electricals Limited, yet there will be a deemed fiction that he was a workman engaged by the Indian Oil Corporation because as the Contractor was not registered under Section 12 of the Contract Labour (Regulation and Abolition) Act, 1970 as the Contractor was not registered for engaging contract labour for electrical works. In my considered view there is no force in the said contention of learned Counsel for the petitioner because this was not the case set up by the petitioner either in the Industrial dispute so raised by him or in the Claim as it stood filed before the learned Labour Court. The case of the petitioner was throughout that he was a workman engaged by the respondent-Corporation. As he failed to establish relationship of master and servant between him and the respondent-Corporation, it cannot be said that the learned Court below has erred in not granting relief in his favour. Accordingly, this petition, being devoid of any merit, is dismissed. Pending miscellaneous application(s), if any, also stand dismissed. However, it is clarified that adjudication done in this petition shall not come in the way of the petitioner to invoke his rights against the contractor, in accordance with law.

29. In the case in hand, as has been observed above, there is no relationship of employer and employee between the petitioner and respondent No.1; rather he was employee/workman of the respondent No.2, who has engaged him for one year as per affidavit Ext.PW2/A executed by the petitioner and the petitioner has not claimed any relief against respondent No.2; rather he has prayed that the respondent department i.e. respondent No.1 be directed to re-engage him in the same capacity. The respondent No.2 is no more providing manpower to the respondent No.2, therefore, in such set of circumstances, the respondent No.1 or the respondent No.2 cannot be ordered to re-engage the petitioner as gardener in Medical College & Hospital Chamba as claimed by the petitioner and the petitioner is not entitled to any relief. Hence both the issues are decided against the petitioner and are answered in negative.

Issue No. 3

30. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No. 4

31. In view of findings of issues No.1 and 2 above, the petitioner has no locus standi to file present petition. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No. 5

32. In view of findings of issues No.1 and 2 above, the petitioner has failed to prove cause of action. Hence this issue is decided in favour of the respondents and is answered in affirmative.

Issue No. 6

33. Neither any evidence has been led nor any arguments were addressed as to how the petitioner has not come to the court with clean hands and what material facts have been concealed

by him. Hence the respondents have failed to prove the same. Consequently, this issue is decided against the respondents and is answered in negative.

Relief

34. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

35. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 10th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 159/2017

Date of Institution : 17.7.2017

Date of Decision : 22.04.2024

Shri Ajeet Singh s/o Shri Sukh Ram, r/o Village Lodar, P.O. Ropari, Tehsil Barsar, District Hamirpur, H.P.*Petitioner* .

Versus

The Divisional Forest Officer, Forest Division Hamirpur, District Hamirpur, H.P.*Respondent* .

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. Parvesh Chandel, Ld. Adv.

For the respondent : Sh. Jasbir Singh, Ld. ADA

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether termination of services of Shri Ajeet Singh S/O Shri Sukh Ram, R/O Village Lodar, P.O. Ropari, Tehsil Barsar, District Hamirpur, H.P. during November, 2015 by the Divisional Forest Officer, Forest Division Hamirpur, District Hamirpur, H.P., without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was engaged as daily wage worker in Forest Range Aaghar on 1.1.2006 and he continuously worked till October, 2015. His services were terminated in November, 2015 without any reason and without serving any notice upon him. Forest Guard, Block Officer and Range Officer are responsible for termination of his services. As per seniority list of six workmen issued by the respondent, he is at serial No.3 and three workmen junior to him are still working. The respondent while terminating his services has retained the workmen junior to him namely Garib Dass, Rajinder Kumar and Veena Devi a in service and thus his services have illegally been terminated. The Reference No.138/2013 was decided on 14.1.2014 on the basis of compromise effected by the parties. After compromise, the respondent engaged him for 150 days only and during this period the respondent has given fictional breaks in his service several time. The respondent did not issue muster roll to him in November, 2015 whereas the workmen junior to him were retained in service. The respondent thus violated the principle of ‘last come first go’. He is unemployed. Hence this petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability and cause of action. On merits, after denying other allegations, it has been averred that the petitioner, infact, was engaged as daily wagger w.e.f. March, 2006 for seasonal forestry work like nursery works, building works etc. He worked intermittently till November, 2015 and thereafter he abandoned the job in November, 2015 and never responded to the oral request made by field staff to report for duty in the field. It has been averred that maximum works in the forest department are of seasonal nature and the continuation of the work is dependent upon the availability of funds and work. At the time of engagement of worker, he is apprised of the nature of job i.e. seasonal works by the field staff. It has been denied that three junior to the petitioner were engaged in service. Garib Dass was also engaged for seasonal works and he left the work in the year 2011 and he presently is not working with the department. Rajender Kumar was engaged as part-time worker on 8.1.2000 and converted into daily wage worker in 2012 vide letter No.Ft.HB(15)177/2000(E-III) dated 19.6.2012 and as such Rajender Kumar was senior to the petitioner. Veena Devi was engaged as daily wagger on compassionate ground vide letter No.FEE-A(B) 17-32/2011 dated 27.3.2012 and thus neither any junior was engaged nor retained and as such there is no violation of any provisions of the I.D.Act. It has been admitted that Reference No.138/2013 received from the Government was decided on 14.1.2014 on the basis of compromise effected by both the parties. It has been averred that no fictional breaks were given in the service of the petitioner. The petitioner has not completed 240 days in any calendar year. The petitioner was not in continuous as per provisions of Section 25-B of the I.D.Act and therefore there was no need to serve notice under Section 25-F upon the petitioner. The petitioner has gainfully employed himself as an agriculturist. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the reply contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 01.8.2018:—

1. Whether termination of the service of the petitioner by the respondent during Nov., 2015 is/was legal and justified as alleged? ..*OPP.*
2. If issue no.1 is proved in affirmative, to what service benefits the petitioner is entitled to? ..*OPP.*
3. Whether the petition is not maintainable in the present form as alleged? ..*OPR.*
4. Whether the petitioner has no cause of action to file present claim petition as alleged? ..*OPR.*

Relief.

7. The petitioner was called upon to lead evidence. The appeared as PW1 and closed the evidence.

8. On the other hand Laishram Chanu Bandana, Divisional Forest Officer, Hamirpur appeared as RW1 and the respondent has also examined Sheetal Kumari, Forest Guard as RW2 and closed the evidence.

9. I have heard the Learned Counsel for the petitioner as well as learned Assistant District Attorney for the respondent and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 : No

Issue No.2 : None

Issue No.3 : Yes

Issue No.4 : Yes

Relief. : Petition is dismissed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

11. Both these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The petitioner admittedly earlier had raised industrial dispute and the appropriate Government had made reference to this Court which was registered as Reference No.138/2013 in which the parties had effected compromise and the matter was disposed of as compromise vide order dated 14.1.2014 Ext. RW1/F which reads as under:

14.01.2014 Present: Petitioner with Sh. S.S. Sippy, AR Sh. Anil Joshi, DFO Hamirpur (respondent) with Sh. Bhuvnesh Awasthi, D.D.A.

Rejoinder not filed. The parties have compromised. Their statements recorded separately. The same are reproduced below verbatim for ready reference:—

“ब्यान श्री अनिल जोषी, आयु 48 वर्ष, Divisional Forest Officer, हमीरपुर, जिला हमीरपुर, हि0 प्र0.

On.S.A.

14.01.2014

वादी अजीत सिंह हमारे पास नौकरी पर वर्ष 2006 मे लगा था। जैसा कि उसके उदकंले बीतज में दर्शाया गया है। वादी को मौसमी काम के लिए बजट व काम की उपलब्धता अनुसार समय-समय पर काम पर रखा जाता था। उसे हमने नौकरी से कभी न निकाला। हम वादी की वरिष्ठता को देखते हुए उसे पहले की तरह ही मौसमी कामों के लिए रखने को तैयार हैं। काम वादी को बजट व काम की उपलब्धता अनुसार आधार रेंज या उसके नजदीक वाली रेंज में देते रहेंगे। जब भी काम उपलब्ध होगा हम वादी को लिखित नोटिस द्वारा सूचित करेंगे ताकि वह नर्सरी में कनजल रवपद कर सके।

RO&AC P.J. Sd/- 14.01.14

ब्यान वादी अजीत सिंह ध्व श्री सुख राम आयु 36 वर्ष तध्व गांव लोडर डा0 रोपडी तहसील बडसर जिला हमीरपुर हि0 प्र0।

On.S.A.

14.01.2014

उपरोक्त ब्यान श्री अनिल जोषी ;प्रतिवादीद्ध सुन लिया है इससे सहमत हूँ। मैं जब भी प्रतिवादी मुझे काम पर आने के लिए नोटिस देगा उसे प्राप्त करुंगा और निश्चित तिथि पर कनजल पर तमचवतज करुंगा। यह मुकदमा न चलाना चाहता हूँ। समझौता हो गया है। मुकदमा दाखिल दफतर किया जावे।

RO&AC P.J. Sd/- 14-01-14

2. Ordered accordingly. Parties to bear their own costs.
3. The reference is answered in the aforesaid terms.
4. A copy of this Order/Award be sent to the appropriate Government for further necessary action at its end.
5. Be consigned to Records after due completion.

Sd/-
Presiding Judge,
Labour Court-cum-Industrial
Tribunal,Dharamshala,H.P.

13. Thus, it is evident from the perusal of order/Award dated 14.1.2014 reproduced hereinabove that the respondent has stated that the petitioner was engaged from time to time for seasonal work subject to availability of budget and work and in view of his seniority he would again be re-engaged for seasonal work. They would engage him in Forest Range Aghar or adjacent Forest Range as and when work and funds would be available and that they would issue notice to the petitioner to join the duty as and when the work would be available. The petitioner has admitted the statement of the respondent and has also stated that he would receive the notice and would report for duty on fixed date and on the basis of statements of the parties the matter was compromised. This, in view of the Award dated 14.1.2014 passed on the basis of compromise effected by the parties, the dispute prior to 14.1.2014 cannot be raised again.

14. Now, the petitioner has come up with the plea that after order/award passed by this court on 14.1.2014 in Reference No.138/2013, the respondent has engaged him for 150 days only and during this period also the respondent has given breaks in his services and terminated his services in November, 2015 whereas workmen junior to him were retained in service and thereby violated the principle of 'last come first go'.

15. On the other hand, the respondent has denied to have been given fictional breaks in service of the petitioner and claimed that the petitioner has abandoned the the job in November,2015.

16. The respondent has produced mandays chart Ext. RW1/D on record perusal of which show that the petitioner after compromise effected on 14.12.2014, has worked for 177 days in the year 2014 and 134 days in the year 2015. Thus as per mandays chart, the petitioner has worked for 143 days i.e. 134 days till November, 2015 and 9 days in November and December, 2014, during the period of 12 calendar months preceding the date of alleged termination of his services by the respondent in November, 2016. He has also not worked for 240 days in any calendar year from 2006 to 2015.

17. The petitioner alleged that the respondent had given fictional breaks in his services. Hon'ble High Court **CWP No. 1272 of 2021** titled as **State of H.P. & Ors. vs. Sanjv Vajir**, held that the onus to prove the fact that the respondent/employer had given fictional breaks in service is upon the petitioner. It was held in paras Nos. 6 to 9 as under:—

"6. It would be noticed that right from the years 1999 to 2007, the respondent did work but that was only intermittent and it was after the year 2008 upto 2010 that the respondent worked for more than 240 days but abruptly in the year, 2011, the respondent only put in 156 ½ days in service. There is nothing on record to indicate that the respondent during the relevant time had questioned the action of the petitioners on the ground that he was being given fictional/artificial breaks so as to deny the claim of the respondent for regularization, yet, the Presiding Officer has concluded that the respondent had deliberately been granted fictional/artificial breaks and the only reason for arriving at such conclusion is contained in para-26 of the award, which reads thus:—

"26. The seniority list, copy of which has been exhibited and proved on record by the petitioner as Ex.PW2/A through the statement of PW2 Shri Mukesh Kumar posted as Junior Engineer in HPPWD Division Baijnath, reveals that workmen Shri Ghanshyam and Shri Narayan Dass both were engaged in the year 2001 and since then they were being offered muster rolls for a full month upto the year 2007. Indisputably, both the above named workmen are shown to be employed in HPPWD Division Baijnath. There is no explanation on the part of the respondent as to why the petitioner, who admittedly was senior to the aforementioned workmen, was not granted the muster rolls for the entire month. Be it recorded at the risk of repetition that a plea was taken by the respondent that the petitioner was being engaged as per the availability of work and funds. If that be so, then why the respondent had been providing work for the entire month upto the year 2007 to the aforesaid workmen, who both were also working in the same Division? The reasons to that effect being obscure go to show that the story put forth by the respondent that the work was being provided to the petitioner as per the availability of work and funds is incorrect. It, thus, only goes to show that the respondent had either been resorting to favouritism or had been acting in a partisan manner to one set of workmen or was resorting to such process with an oblique motive of depriving the petitioner of the status and privileges of permanent workman, entitling him to regularization as per the policy of the State Government from time to time. It appears to be an act of gross discrimination which is ex- facie borne out from the record."

7. As observed above, the onus to prove the fact of fictional/artificial breaks was solely upon the respondent and merely because some other workmen who may have been engaged after the engagement of the respondent were offered muster rolls for the full month after the year, 2007 could not lead to any inference that the respondent had either been discriminated or that fictional/artificial breaks had been granted to the respondent so as to defeat his claim for regularization. The plea is otherwise negated from the man-days chart (supra), which goes to indicate that the respondent had been permitted to work for 364 days in the year, 2008, 350 days in the year, 2009, 302 days in 2010, 366 days in 2012, 365 days in 2013, 363 days in 2014 and 2015 and 362 days in 2016, meaning thereby, that the respondent had been engaged throughout the year.
8. The conclusion or rather inference drawn by the learned Presiding Judge is based only on hypothesis without there being any proof whatsoever either in the pleadings or in the evidence so led.
9. Obviously, in such circumstances, the petition is allowed and the impugned award dated 29.08.2019, passed by the learned Labour Court-cum-Industrial Tribunal is not sustainable in the eyes of law and the same is accordingly set aside, leaving the parties to bear their own costs.
18. In the case in hand, the petitioner has not led any cogent evidence to prove that the respondent had given fictional breaks in his services.
19. The petitioner Ajeet Singh appeared as PW1 and filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has stated that after the order dated 14.1.2014 passed in Reference No.138/2013, he was engaged by the respondent for 150 days and during this period the respondent had given fictional breaks in his services. In his cross-examination he has denied that he used to attend the work on his own sweet will.
20. The petitioner, besides his bald statement, has not led any cogent evidence on record to prove that the respondent has given fictional breaks in his service.
21. On the other hand, Divisional Forest Officer, Laishram Chanu Bandana appeared as RW1 and filed affidavit Ext. RW1/A wherein she has affirmed all the averments made in the reply on oath. She categorically has stated that no fictional breaks were given in the services of the petitioner. The petitioner intermittently worked from March, 2006 to November, 2015 and thereafter he left the work on his own sweet will. In her cross-examination, she has denied that the petitioner was terminated in the year 2015 without issuing any notice to him. She has also denied that the petitioner had worked for 240 days in each calendar year. She has further stated that the department has issued notice to the petitioner to join his duty but he did not turn up.
22. The respondent has also examined Forest Guard Sheetal Kumari, as RW2. She has proved on record the copies of notices dated 18.11.2013, 21.11.2013, 30.6.2014 and 18.8.2014 Ext. RW2/A1 to Ext. RW2/A4 from the original record. In her cross-examination, she has stated that the petitioner has worked as daily wager as per record.
23. This is the entire evidence led by both the parties.
24. Thus it is evident from the resume of evidence of the witnesses of both the parties discussed supra that the petitioner besides his bald statement has not led any cogent evidence on record to prove that the respondent has given fictional breaks in his service. The petitioner has not

disputed the mandays shown in mandays chart Ext. RW1/D produced and proved on record by the respondent as DFO Laishram Chanu Bandana has not been cross-examined qua the mandays shown in the mandays chart Ext. RW1/D and therefore the mandays having not been disputed by the petitioner, have to be accepted to be correct. Furthermore, the petitioner, in the previous case/reference, as has been observed above, categorically has admitted the statement made by the Divisional Forest Officer, Anil Joshi that he was engaged from time to time for seasonal work subject to availability of budget and work, which in turn proves on record that the petitioner was not regularly working with the respondent; rather he was engaged for seasonal work. The respondent has also placed on record the Notices Ext. RW2/A1 to Ext. RW2/A4 out of which Ext. RW2/A1 and A2 pertain to the period prior to 14.1.2014 and as per Notice Ext. RW2/A3 the petitioner was engaged for fire season work which was completed on 30.6.2014 and as such the petitioner was told that he would be engaged as and when the another work would be available and as per mandays chart Ext. RW1/D the petitioner was engaged again in the month of July, 2014 and he had worked for 23 days in the said month. Further as per notice dated 18.8.2014 Ext. RW2/A4 the work for which the petitioner was engaged was completed and he had worked for 37 days till 18.8.2014, however, as per mandays chart Ext. RW1/D, the petitioner had also worked for 10 days in the month of September 2014 as well which in turn clearly goes to show that the petitioner was engaged by the respondent as and when work was available and there is nothing in the evidence of Laishram Chanu Bandana, RW1 from which it can be inferred that the respondent had given fiction breaks in service of the petitioner or the respondent has terminated his services. Therefore, in such set of circumstances, the evidence of Laishram Chanu Bandana, RW1 that the petitioner himself has left the work in November, 2015 has to be accepted to be correct. Hence it can safely be concluded that the petitioner has failed to prove that the respondent had given fictional breaks in his service and terminated his services in November, 2015.

25. Without prejudice to above, even if it is resumed that the services of the petitioner were terminated in November, 2015, even then the petitioner has failed to prove that the respondent has terminated his services in violation of Section 25-F of the I.D. Act. As per mandays chart Ext. RW1/D, as has been observed, the petitioner has not worked for 240 days during the period of 12 calendar months preceding the date of alleged termination of his services, therefore, he was not in continuous service as per provisions of Section 25-B of the I. D. Act.

26. As per the provisions of Section 25-F of the I.D.Act, the services of a workman, who has been in continuous service, can only be terminated after issuance of one month's notice indicating the reasons for termination of services or payment of one month's wages in lieu of notice period and retrenchment compensation. In the case in hand, the respondent admittedly has not issued one month's notice to the petitioner nor paid one month's wages in lieu of notice period and retrenchment compensation to him, however, the petitioner has not worked for 240 days during the period of 12 months preceding the date of alleged termination of his services and therefore he was not in continuous service under the respondent and as such the respondent was not required to serve notice under Section 25-F of the I.D. Act upon the petitioner. Hence violation of Section 25-F is not proved.

27. The petitioner has also alleged violation of Section 25-G of the I. D. Act. The petitioner has stated that the respondent has retained Garib Dass, Rajinder Kumar and Veena Devi in service while terminating his services. Divisional Forest Officer Laishram Chanu Bandana, RW1, on the other hand, has stated that Garib Dass was engaged for seasonal works and he left the work in the year 2011 and he presently is not working with the department. Rajender Kumar was engaged as part-time worker on 8.1.2000 and was converted to daily wage worker in 2012 vide letter No.Ft.HB(15)177/2000(E-III) dated 19.6.2012 and as such Rajender Kumar was senior to the petitioner. Veena Devi was engaged as daily wagger on compassionate ground vide letter No.FEE-A(B) 17-32/2011 dated 27.3.2012 and thus neither any junior was engaged nor retained and as such there is no violation of any provisions of the I.D.Act.

28. The respondent in order to prove these facts has produced on record letter dated 19.6.2012 Ext. RW1/B perusal of which would show that Rajender Kumar was engaged on 8.1.2000 and converted to daily wage worker from part-time worker after completion of 10 years of service on 31.3.2012 and thus Rajender Kumar was senior to the petitioner. As per seniority list Ext. RW1/E Garib Dass has not been working since the year 2012 and Veena Devi mentioned at serial No.6 has been engaged on compassionate ground, who as per letter Ext. RW1/C was extended employment assistance on compassionate ground on daily wage basis and thus she cannot be said to have engaged in violation of the provisions of Section 25-G of the I. D. Act. Hence it can safely be concluded that the respondent has not retained junior to the petitioner at the time of alleged termination of his services. Even otherwise, the petitioner has failed to prove that the respondent has terminated his service, therefore, the respondent cannot be said to have violated the provisions of Section 25-G of the I. D. Act.

29. The petitioner has not led any cogent evidence on record to prove that the respondent has engaged any fresh hands after alleged termination of his services and therefore violation of Section 25-H of the I. D. Act. is also not proved.

30. Therefore, in view of above observations, it can safely be concluded that the petitioner has failed to prove that the respondent has illegally terminated his service without complying with the provisions of the I. D. Act and therefore the petitioner is not entitled to any relief as claimed by him. Hence both these issues are decided against the petitioner and answered in negative.

Issue No.3

31. In view of my findings returned on issues No.1 and 2 above, the petition is not maintainable. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Issue No.4

32. In view of my findings returned on issues No.1 and 2 above, the petitioner has failed to prove cause of action to file present claim petition. Hence this issue is decided in favour of the respondent and is answered in affirmative.

Relief

33. In view of my findings returned on the above issues, the present claim petition fails and is accordingly dismissed. However, under the facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

34. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after due completion be consigned to the Record Room.

Announced in the open Court today, this 22nd day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 68/2018

Date of Institution :11.7.2018

Date of Decision : 30.4.2024

Shri Prakash Chand s/o Shri Musadi Ram, r/o Village Chandod, P.O. Tarella, Tehsil Churah, District Chamba, H.P.*Petitioner* .

Versus

The Manager, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah, District Chamba, H.P.*Respondent* .

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P.Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of the services of Sh. Prakash Chand S/o Sh. Musadi Ram, Village Chandod P.O. Tarella Tehsil Churah Distt. Chamba, H.P. from 1/12/2016 (as alleged by the worker) by the Manager AT Hydro Pvt. Ltd. Tarella, Pargna, Sei Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on daily wage basis as labourer on muster roll by the respondent without any appointment letter in the year 2006. After his engagement an official of the company had executed Affidavit on 7.12.2007 for providing job to him for 40 years as land of his father was taken by the respondent company for construction of project. He initially was paid Rs.4500/- as salary and he was receiving Rs.6960/- per month at the time of termination of his services by the respondent on 1.12.2016. After termination of his services, he approached the respondent time and again to re-engage him but the respondent did not pay any heed to his requests. The State of H.P. has framed the policy for regularization of daily wage workers. As per policy, the worker is required to work for 240 days in each calendar year. The respondent did not disclose actual number of days before Conciliation Officer. The respondent has given fictional breaks in his services and retrenched him without giving one month's notice or retrenchment compensation to him. The respondent retained workmen junior to him in service and thus principle of 'last come first go' has been violated by the respondent. The persons whose services were illegally terminated by the respondent with him, have been re-engaged. The respondent has also engaged new workman from time to time after terminating his services without

giving him an opportunity of re-employment. He never remained absent from duty since his engagement till the date of illegal termination of his services. The respondent had given fictional breaks in his services intentionally so that he might not complete 240 days in each calendar year. Had his services not been terminated illegally and fictional breaks were not given in his service, he would have completed 8 years of continuous service as on 31.12.2015 and would have become entitled to work charge status/regularization w.e.f. 1.1.2016. He was never charged sheeted for any act of indiscipline, negligence of work or misconduct. He worked with full devotion and thus the verbal order of termination of his services is illegal, highly unjustified and also against the principle of natural justice. He is unemployed since 1.12.2016. He requested the respondent orally as well as in writing to re-engage him, but despite repeated requests, the respondent did not engage him. The action the respondent is malafide, arbitrary, unconstitutional, illegal, highly unjustified and against the principle of natural justice which amounts to unfair labour practice. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, jurisdiction, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been denied that the petitioner was engaged in the year 2007 and he was working since then. It has been averred that the petitioner, infact, was never engaged by the respondent company; rather the petitioner was employed by the contractor M/s ASG Transerectors, during construction of the project. It has been denied that after engaging the petitioner affidavit was executed on 7.12.2007. However, it has been averred that after signing of the settlement agreement dated 25.8.2015, this affidavit has no value in the eyes of law. It has also been denied that the salary of the petitioner in the month of June 2013 was Rs.5960/- and in December, 2016 was Rs.7301/- per month. It has been averred that Trade Union Mahal Nag, Tarela VPO and Tehsil Churah, District Chamba H.P. (hereinafter in short is referred to as the Workers Union) has raised industrial dispute under Section 2(k) of the I.D. Act vide demand notice dated 17.7.2014 whereby they had raised demand on behalf of the workers employed by M/s ASG Tranerectors at the project site. The contractor M/s ASG Transerectors was not responding to the demands of its workers and the workers were agitating at the project site. The Workers Union had raised demand before the Lbaour-cum-Conciliation Officer, Chamba. Under these circumstances, they attended the meeting called by the Conciliation Officer. After protracted negotiations between the parties in the presence of the Conciliation Officer, the management informed the Workers Union and Conciliation Officer that the existing 76 workers deployed by various contractors were more than the requirement at 5 MW Small Hydro project. After commissioning of the project, the contractors would be disengaged and they would not require the manpower. The Workers Union alongwith their workers had appealed to the management to take employees of the contractors on the rolls of company. They have also raised certain demands including payment of higher wages. During conciliation proceedings, it was made it clear that they would not employ the contractor employees because post commissioning of the project they would not require unskilled manpower and the project would become economically unviable if they would employ more than minimum required manpower. Subject to this condition, it was agreed to consider other demands raised by the Workers Union, though the respondent was not illegally bound to consider their demands as they were workers of the contractors. After mutual and amicable discussions in the conciliation proceedings, the authorized representative of the Workers Union and the respondent company signed memorandum of settlement on 25.8.2015 in the presence of Labour-cum-Conciliation Officer Chamba under Section 12(3) of the I.D.Act. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each employee of the contractor and it was also agreed that the manpower who were engaged by the contractor would be paid compensation at the discretion of the management. On 30.11.2016, as per agreement, it notified, a list of the workers of the contractor M/s ASG Contractor as per record available with it and requested all persons to collect their compensation including the petitioner, but he refused to receive the same. The respondent had agreed to pay compensation on humanitarian

ground and to bring peace in the project site. On 1.12.2016, cheque amounting to Rs.2,00,000/- as compensation and one another cheque of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner by post. Hence the allegations of the petitioner that he was not paid salary for the month of November, 2016 are false and baseless. The petitioner was offered compensation as per memorandum of settlement. It was under no obligation to comply with the provisions of Section 25-F of the I.D.Act as the petitioner was not employed by the company. It has also been denied that the respondent had engaged new workmen after 1.12.2016. Since the petitioner was not the employee of the company, there was no question to pay retrenchment compensation or to comply with the provisions of Sections 25-F and 25-G of the I.D.Act. The petitioner was paid salary for two three months equivalent to retrenchment compensation as an abundant caution for compliance of provisions of Section 25 of I. D. Act as the contractor was not responding to the notices issued by the Conciliation Officer. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 7.1.2020:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent on 01-12-2016, as alleged. If so, its effect? ..*OPP*.
2. Whether full and final settlement had taken place in between the parties on 25-08-2015, as alleged. If so, its effect? ..*OPR*.
3. Whether there exists no relationship of employer and employee in between the petitioner and respondent, as alleged? ..*OPR*.
4. Whether the petitioner has no cause of action to file the present case, as alleged? ..*OPR*.
5. Whether this Tribunal has no jurisdiction to try the present case, as alleged? ..*OPR*.
6. Whether the claim petition is time barred, as alleged? ..*OPR*.

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides himself, has examined one Bhagwan Singh as PW1 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Partly yes

Issue No.3 :No

Issue No.4 :No

Issue No.5 :No

Issue No.6 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was employed by contractor M/s ASG Transerectors.

14. The petitioner, in order to prove his claim, has examined one Bhagwan Singh, Pradhan, Gram Panchayat Gulla, Tehsil Churah, District Chamba, H.P. as PW1 who has filed affidavit Ext. PW1/A in his examination-in-chief wherein he categorically has stated that the petitioner was engaged as daily wage worker on muster roll without any appointment letter in the year 2007 and his services were orally terminated on 1.12.2016. In his cross-examination, he has admitted that the construction of the project was completed in the year 2009 and generation of electricity was started. He did not know that the company had employed 400 to 500 workers through the contractor in those days. He didn't know whether muster roll was issued to the petitioner and added that he had seen him working at site. He however, feigned ignorance that the petitioner was engaged by the contractor M/s ASG Transerectors.

15. The petitioner Prakash Chand appeared as PW2 and filed affidavit Ext. PW2/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has also tendered copies of salary slips Ext. PW2/B1 to Ext. PW2/B20, demand notice Mark-A, letter of Labour Officer Ext. PW2/C, reply to demand notice Mark-B, rejoinder to the reply of demand notice Mark-C and copy of affidavit Ext. PW2/D in evidence. In his cross-examination, he has admitted that it has been mentioned in the affidavit Ext. PW1/D that Rules framed by the Himachal Pradesh Government relating to employment with Company and the Company's Rules and Conditions of employment shall be applicable and added that it has also been mentioned in the affidavit that he would be given employment for 40 years. He did not know that the employment was agreed to be provided as per memorandum of understanding with the Government till the construction of the project. He has denied that the project was constructed in the year 2009 and generation of electricity was started in the year 2009. He has denied that he was employed by the contractor. He has denied that he worked with the contractor M/s ASG Transerectors and he was paid salary by the said contractor. He has also denied that there was Workers Union of the workers

namely Mahal Nag AT Hydro Project Workers (Regd.) Union, Tarela. He did not know that Workers Union had given demand charter to the Labour Officer and Labour Officer had called the parties for conciliation. He did not know that the settlement was arrived at between the Workers Union and respondent before Labour Officer and as per settlement, Rs.2,00,000/- were agreed to be paid to the retrenched workers. He did not know that the company was vested with the discretion to retrench the workers as per the settlement. He did not know that the respondent had displayed the list of surplus workers on 30.11.2016. He has denied that the respondent had sent cheque of Rs.2,00,000/- along with salary for the months of November and December, 2016 to him. He has not produced any proof of the title of land purchased by respondent and added that said land was in his name. He has denied that the pay slips Ext. PW2/B1 to Ext. PW2/B20 were issued by the contractor ASG Transerectors and added that the respondent company used to issue these receipts.

16. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered attendance chart/pay sheets Ext. RW1/B1 to Ext. RW1/B25, memorandum of settlement Ext. RW1/C, demand charter Ext. RW1/D, labourer licence of contractor Ext. RW1/E, list of workers Ext. RW1/F, implementation agreement Ext. RW1/G, agreement with contractor Ext. PW1/H, envelop in which cheques were sent Ext. RW1/J, original cheques Ext. RW1/K and Ext. RW1/L and letter dated 30.11.2016 Ext. RW1/M in evidence. In his cross-examination, he has denied that the company had engaged around 150 workers and added that the workers were engaged through contractor. He has admitted that they have not placed details of the contractor working with them in the year 2007. He has denied that the petitioner had worked from 2008-09 to December, 2016 in continuity. He has denied that they have not paid the salary for November and December, 2016 to the petitioner and added that they had sent the same through cheques but the petitioner had refused to accept the same. He has admitted that the respondent had not given one month's advance notice to the petitioner and added that they have paid wages for the notice period through cheque. He did not know that as per document Ext. PW2/B, the petitioner was supposed to work for 40 years with the respondent company. He has denied that settlement dated 25.8.2015 had taken place without consent of the petitioner and he was not present at that time. The company had engaged two contractors and name of one contractor was Rakesh Pathania. He did not remember the name of another contractor. He has admitted that Rakesh Pathania has not been cited as witness in this case. He has denied that after termination of the services of the petitioner, they have engaged Tek Chand, Sukh Lal and Suni Ram. He has further stated that the company presently is having 42 employees. He did not know as to whether any memorandum of settlement was entered into between the contractor and the petitioner. He did not know as to whether this memorandum was produced during the conciliation proceedings or not. He has denied that it was agreed in the memorandum of settlement that only those workers, who were willing to leave the work at their free will, would be terminated. He did not know whether the Government had issued notification on the basis of conciliation proceedings or not. He has admitted that memorandum of settlement has not been signed by the contractor. He has admitted the licence Ext. RW1/E was issued for one year and added that it was renewed from year to year. He, however, has admitted that renewed licence has not been placed on record. He has denied that no cheque was sent to the petitioner. The workers shown in the Ext. RW1/F are still working with the company. He has admitted that he has not brought original cheque book of cheques Ext. RW1/K and Ext. RW1/L. He did not remember about the endorsement in red circle on Ext. RW1/J and added that it was made by the official of the postal department. He has admitted that they have not summoned any witness from postal department and added that they could not find the person who had made this endorsement.

17. This is entire evidence led by both the parties on record.

18. Learned Counsel for the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. RW1/C. The demand notice Ext. RW1/D and settlement Ext. RW1/C produced by the respondent on record proves that the petitioner was engaged by the respondent and he was the employee of the respondent.

19. Learned Counsel for the respondent has vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove the same; rather the pay slips Ext. PW1/B1 to Ext. PW1/B20 produced on record by the petitioner proves that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

20. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in abovesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, the respondent itself has produced documents on record which prove that the petitioner was employee of the respondent.

21. The petitioner (PW2) has stated that he was engaged by the respondent in the year 2006 whereas his witness Bhagwan Singh PW1 has stated that the petitioner was engaged on muster roll by the respondent in the year 2007. The petitioner has produced the pay slips Ext. PW1/B1 to Ext. PW1/B20 only which have been issued by M/s ASG Transerectors Sultanpur, however, the petitioner has stated that the same were issued by the respondent company and he has denied that he was employed by the contractor. The petitioner has not produced any documentary evidence on record to prove that he was engaged by the respondent in the year 2006. The petitioner thus has not produced cogent evidence on record to prove that he was engaged in the year 2006, but he has also denied that he was employed by the contractor.

22. The aforesaid pay slips pertain to the period from July, 2013 to January 2015. The respondent has placed on record the agreement Ext. RW1/H entered into with M/s ASG Transerectors on 6.8.2013 for providing manpower as per terms and conditions of the agreement. The respondent has also produced on record copy of licence Ext. RW1/E issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. Nirmal Kumar, RW1 in his cross-examination has admitted that the licence Ext. RW1/E was issued for one year. Though he has added that it was renewed from year to year yet he has also admitted that renewed licence has not been produced on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

23. But even if this fact is ignored, even then it would be evident from the perusal of the demand notice Ext. RW1/D dated 9.7.2014 issued by Workers Union as well as settlement agreement Ext. RW1/C produced and proved on record by the respondent that the petitioner, infact, was engaged by the respondent. The demand notice Ext. RW1/D was issued on 9.7.2014. As per settlement, demand notice was issued on 17.7.2014 by the Workers Union but during course of the arguments, the learned counsel for the respondent submitted that it was demand notice dated 9.7.2014 and was mistakenly written dated 17.07.2014, which is Ext. RW1/D produced on record by the respondent. It would be evident from the perusal of demand notice Ext. RW1/D that the Workers Union besides other demands; has raised the demand that the services of the workmen working under the project were illegally placed under the contractor w.e.f. 1.6.2013 and therefore it was requested that all the workmen be treated as company's workers from the date of their initial

employment in the project and the salary of the workmen be paid directly by the project management instead through contractor. It would be evident from the perusal of condition No.4 of the settlement Ext. RW1/C that it was agreed that the management would take employees on their own rolls and would issue appointment letter, identity card and pay slips after amicable separation of surplus manpower as agreed. It was also agreed that the retrenched employee would be paid Rs.2 lac as full and final settlement amount against separation which in turn clearly goes to show that the demand of the union qua illegally placing the services of the workmen under the contractor was accepted and the employees were agreed to be taken on the rolls of the company, but after separation/retrenchment of the surplus employees and therefore, in such set of such circumstances, the evidence of Prakash Chand PW2 that he was engaged by the respondent, has to be accepted to be correct, moreso, when the licence of M/s ASG Transerectors had expired on 29.7.2014 and renewed licence was not produced on record and even the contractor was also not examined by the respondent to prove that he was supplying the labour to the Respondent even after 29.7.2014.

24. This apart, there is no reference of any contractor in settlement Ext. RW1/C which is document of respondent and Nirmal Kumar, RW1, as has been observed above, in his cross-examination has stated that the memorandum of settlement did not bear signatures of the contractor. Had the petitioner along-with other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the Workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers, who were to be retrenched.

25. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not produced any pay slips of the workmen from 1.9.2015 to 30.09.2016 on record to prove that the monthly wages to the petitioner were paid through contractor whereas as per pay sheet Ext. RW1/B-6 for the month of October, 2016, the pay has been prepared by the respondent and the petitioner has been shown as one of the worker in paysheet at Sr. No. 47 and therefore taking into consideration the aforesaid facts and circumstances, especially the settlement Ext. RW1/C relied upon by the respondent whereby the surplus workmen were agreed to be retrenched after payment of Rs.2 lac as compensation and demand notice Ext. RW1/D, it can safely be concluded that the petitioner was engaged by the respondent and he was the employee of the respondent.

26. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. RW1/C and therefore he is not entitled to any relief.

27. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh alongwith wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.16957/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but he even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. RW1/C and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

28. On the other hand, learned counsel for the petitioner vehemently contended that the petitioner was not party to the settlement Ext. RW1/C, but for the sake of arguments, if it is assumed that the settlement Ext. RW1/C was arrived in between the workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has

not terminated the services of the petitioner as per terms and conditions of settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per settlement Ext. RW1/C was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of 'last come first go'. The respondent has not produced the list of all the workmen employed in the project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

29. Hon'ble Supreme Court in **ITC Workers Welfare Association and Anr.'s** case supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on the which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of *Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd.* (1991 (1)SCC 4) succinctly summarized the position thus :—

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkata-ramiah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :—

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs, successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :-

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

30. Thus in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

31. In the case in hand, the validity of the settlement Ext. RW1/C has not been assailed; rather the petitioner in rejoinder has pleaded that the settlement dated 25.8.2015 is related to different demands of the workers and the separation of surplus manpower, who were retrenched in the year 2014 and has further claimed that since his services were terminated on 1.12.2016, the management and workers Union settlement dated 25.8.2015 (Ext. RW1/C) is not applicable to the present case. The petitioner though has tried to assail the same on the ground that he has not signed the same, yet in view of law laid down by the Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the union under Section 18 (3) of the I. D.Act, it is binding on the petitioner as well.

32. So far as the plea of the petitioner that it is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014, is concerned, the same is also not tenable as the Workers Union, as has been observed above, vide demand charter Ext. RW1/D, had not raised any demand with regard to the workers terminated in the year 2014 nor there was any settlement with regard to the workmen retrenched in the year 2014; rather, on the demands having been raised by the Workers Union, it was agreed between the parties that the surplus manpower shall be decided at the discretion of the management by following the applicable laws. Hence this plea of the petitioner cannot be accepted. Consequently, it can safely be held that a valid settlement Ext. RW1/C had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. RW1/C.

33. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that his services were terminated as per settlement Ext. RW1/C and therefore the petitioner cannot challenge the same. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. RW1/C which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant.
The surplus manpower shall be decided at the discretion of the management by following the applicable laws.
2. The willing workmen shall be given preference for separation (Non Technical Employees).
3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.

6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.
7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).
10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.
15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947”.

34. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws. Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

35. The petitioner was engaged as a workman and therefore, he could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

36. Since, as per settlement Ext. RW1/C the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to him as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but he had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

37. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 30.11.2016 the list of the workers was notified and they including petitioner were requested to collect their compensation cheques but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were despatched to the petitioner through registered post on 1.12.2016 and Nirmal Kumar, RW1 has also stated so, however, the respondent has not led any cogent evidence on record to prove that the cheque of Rs.2 lakh Ext. RW1/L and cheque of Rs.16957/- Ext. RW1/K were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. RW1/M with regard to payment of full and final settlement also bears date 30.11.2016, yet the registered letter Ext. RW1/J bears postal stamp dated 21.12.2016 which means that the aforesaid cheques alongwith letter Ext. RW1/M were not sent to the petitioner on 1.12.2016 as claimed by the respondent, but on 21.12.2016 and there is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques were handed over to him petitioner on 30.11.2016 as the petitioner Prakash Chand was not suggested that the cheques were handed over to him on 30.11.2016; rather he was suggested that the respondent had sent the cheques amounting to Rs.2 lakhs in his favour along-with salary for the months of November and December, 2016, which was denied by him. Hence it is established on record that the wages in lieu of notice period as well as compensation was not paid to the petitioner on 30.11.2016.

38. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when he was asked to go i.e. 30.11.2016, it can safely be concluded that the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. RW1/C.

39. The petitioner, however, has not led any cogent evidence to prove that the respondent has retained workmen junior to him in service while terminating his services and has violated the principle of 'last come first go' and therefore violation of Section 25-G is not proved.

40. The petitioner has also taken plea that the Manager of the respondent company vide affidavit dated 7.12.2017, the copy whereof Ext. PW2/D on record, has undertaken to provide job for a period for 40 years as the land of his father was given for the construction of the project, however, the petitioner has not produced any document except affidavit on record to prove that the land of his father was acquired / taken by the respondent for construction of the power project. As per affidavit the land was being used for construction of the power project, however, the petitioner has not led any cogent evidence to prove that land of his father or his ancestral land was acquired or used for construction of the project and therefore he is not entitled to any relief on this count.

41. The petitioner, thus, has proved on record that the respondent has terminated his services in violation of the terms and condition of settlement Ext. RW1/C and the provisions of Section 25-F of the I. D. Act.

42. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal** 2014 7 SCC 177 in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In Man Singh (supra) which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for

merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/-(Rupees Fifteen Thousand only) in this appeal.

43. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517**.

44. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

45. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

46. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. RW1/C arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, issues No.1 is partly decided in favour of the petitioner, issue No.2 is partly decided in favour of the respondent and issue No.3 is decided against the respondent and are answered as such.

Issue No. 4

47. In view of my findings on issues No.1 and 2, the petitioner has proved cause of action to file the present petition. Hence this issue is decided against the respondent and is answered in the negative.

Issue No. 5

48. The petitioner has raised the industrial dispute and the appropriate Government has made reference to this court for adjudication and therefore this court has jurisdiction to try the present case. Hence this issue is decided against the respondent and is answered in negative.

Issue No. 6

49. It is fairly well settled by now that no period of limitation prescribed under the I.D. Act for making reference under Section 10 of the I.D. Act. Even otherwise, the services of the petitioner were terminated on 1.12.2016 and has raised the industrial dispute in the year 2017 and therefore the claim of the petitioner is not time barred. Hence this issue is decided against the respondent and is answered in negative.

Relief

50. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of his services in violation of the provisions of Section 25-F of the I.D.Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

51. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 98/2018

Date of Institution :29.12.2018

Date of Decision : 30.4.2024

Smt. Brahmi Devi w/o Shri Roop Lal, r/o Village Chandor, P.O. Tarella, Tehsil Churah,
District Chamba, H.P.*Petitioner.*

Versus

The Employer/ Managing Director, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah,
District Chamba, H.P.*Respondent .*

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. T.R.Bhardwaj, Ld. A.R.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether termination of services of Smt. Brahmi Devi w/o Sh. Roop Lal, R/O Village Chandor, P.O. Tarela Tehsil Churah Distt. Chamba, H.P. w.e.f.1/12/2016 by the Employer / Managing Director, M/S AT Hydro Project Pvt. Ltd. Upper Tarela, P.O. Tarela, Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that the respondent started construction of the A.T. Hydro Project Upper Tarela during the year 2006 for which purpose the respondent has acquired the land of various land holders including father of the petitioner Sh. Devi Ram. Management of respondent has assured her father that they would provide employment to her for a period of 40 years and accordingly the respondent has engaged her as worker on 01.11.2007 being land oustee under the Rehabilitation plan of the H.P. Govt. The construction work of the project was completed in the year 2009 and it came into operation in the month of October, 2009. Her father died during the year 2009 and his property was inherited by his all legal heirs including her. Her share in the joint property was also used by the respondent for construction of Switch Yard of the Power House and Four way Water Tank etc. and the respondent has not paid compensation of her share to her till date and terminated her services illegally alongwith other 11 workmen on 01.12.2016. After termination of their services, the respondent has awarded contracts to various contractors for supply of labour to carry out the works which they were carrying out. She continuously worked with the respondent w.e.f. 01.11.2007 to 30.11.2016 and the respondent illegally terminated her service w.e.f. 01.12.2016 without complying with the provisions of Industrial Disputes Act, 1947. The respondent has retained junior to her namely Sukhdev, Hari Lal, Roop Lal, Jagdish, Sukh Lal, Deep Raj and Hans Raj in service while terminating her services in violation of the provisions of Section 25-G of the Act. The respondent has never served one month notice upon her before terminating her services nor paid one month wages in lieu of notice period and retrenchment compensation to her at the time of termination of her services. Even, no notice of the retrenchment was served upon the Appropriate Govt. and no prior approval of the Govt. was taken before termination her service as such the act of the respondent in terminating her services is illegal and unjustified. The respondent has not even followed the principle of 'last come first go' and thereby violated the Provisions of Section 25-G of the I.D. Act. She was never charge sheeted for the act of indiscipline or misconduct. No charge sheet was served upon her nor any inquiry was conducted before terminating her service. No opportunity of personal hearing was afforded to her. The termination of her services is also against the Rehabilitation plan of the H.P. Govt. She is unemployed since the date of her illegal termination. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been admitted that the M/S AT Hydro Pvt. Ltd. has started construction of Uppar Tarella Project in the year 2006 for which purpose land from various land owner was purchased, however, it has been averred that they had

not acquired any land, but had purchased land from various land owner on negotiated rates. It has been denied that the petitioner was engaged in the year 2007 and she was working since then. It has been averred that the petitioner, infact, was engaged on 01.06.2013 alongwith other workers through contractor M/s ASG Transerectors. It has been denied that management has assured the father of the petitioner to provide employment for 40 years. It has been averred that as per the implementation agreement signed with the Government of H.P. there was no obligation to provide employment to land looser. They, however, have not purchased any land of the petitioner. Moreover, two members of the family of the petitioner are still employed in Tarela-III project owned by the respondent company. They never awarded any work to contractor to supply labour nor had engaged others persons after 01.12.2016. It has been denied that the petitioner worked with the respondent from 01.11.2007 to 30.11.2016. It has been averred that she was on the roll of contractor M/S ASG Transerectors w.e.f. 1.6.20013 to 30.11.2013. Petitioner alongwith other workmen being surplus were retrenched after complying with all the provisions of the Industrial Disputes Act, 1947 as per settlement arrived between the Union Mahal Nag AT Hydro Project Workers (Regd) Union Tarela (hereinafter in short is referred as Workers Union) and management of the respondent under Section 12(3) of the I.D. Act 1947. In fact the Workers Union vide demand notice dated 09.07.2014. had raised certain demands under Section 2(k) of the Industrial Dispute Act, 1947 in respect of working conditions of the workers employed by the contractor M/S ASG Transerector at the project site. The Workers Union had also raised demands before the Labour – cum- Conciliation Officer Chamba. During the Course of conciliation, the management told that the existing manpower strength of 76 workers deployed at 5 MW Small Hydro was more than the requirement. The management proposed to rationalize the unskilled manpower engaged in the plant. The Workers Union along-with their workers have appealed to the management to employ them directly instead of the Contractor. They have also raised certain demands including payment of higher wages. After mutual and amicable discussions, the authorized representative of the Workers Union and respondent company signed memorandum of settlement on 25.08.2015 in presence of Labour–cum-Conciliation Officer Chamba under Section 12(3) of the I.D.Act, 1947. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each employee of the contractor and it was also agreed that the manpower who were engaged by the contractor would be paid compensation at the discretion of the management. The management exhibited the list of unskilled workers on 22.11.2016 at the entry gate and requested the petitioner to collect the compensation cheques and salary cheques on 30.11.2016 but she refused to receive the same. On 1.12.2016, one compensation cheque amounting to Rs. 2,00,000/- and another cheque of Rs. 22,212/- of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner by registered post. They have not retained any junior to the petitioner . The petitioner was offered compensation as per memorandum of agreement of settlement and in compliance of provisions of Section 25-F of the I.D. Act. Notice of retrenchment as prescribed under Section 25-F (c) was served upon the Appropriate Government within stipulated time. The strength of the workmen on the date of retrenchment was 58 and therefore provisions of prior approval of Appropriate Government for retrenchment were not applicable to the respondent company. No fresh hand has been engaged after 1.12.2016. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 23.06.2022:—

1. Whether termination of the services of the petitioner w.e.f. 01.12.2016 by the respondent is /was illegal and unjustified, as alleged? ..OPP.

2. If issue no. 1 is proved in the affirmative, what services benefits the petitioner is entitled to? ..*OPP*.
3. Whether the claim petition is not maintainable, as alleged? ...*OPR*.
4. Whether there is no relationship between the petitioner and the employer as claimed? ...*OPR*.
5. Whether the petitioner has no cause of action to file the present case, as alleged? ...*OPR*.
6. Whether this Court has no jurisdiction to entertain the present case as alleged? ...*OPR*.
7. Whether the petition is time barred as alleged? ..*OPR*.

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides herself, has examined one Roop Singh as PW2 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Compensation

Issue No.3 :No

Issue No.4 :No

Issue No.5 :No

Issue No.6 :No

Issue No.7 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1, 2 and 4

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was employed by contractor M/s ASG Transerectors.

14. The petitioner in order to prove her case has examined her husband Roop Singh as PW2, who has filed affidavit Ext. PW2/A in his examination-in-chief wherein he categorically has stated that he has been working in AT Hydro Project as unskilled worker since 1.12.2008. The petitioner was engaged as worker by the respondent on 1.11.2007 and thereafter she continuously worked in the aforesaid project till her illegal termination from service on 1.12.2016. The workers junior to the petitioner were retained in service by the respondent while terminating the services of the petitioner on 1.12.2016. Sukhdev, Hari Lal, Roop Singh, Jagdish, Sukh Lal, Deep Raj, Hans Raj, who were engaged in the year 2008 and 2009 are still working with the respondent. The respondent had not displayed the copy of seniority list of unskilled worker on the entry gate on or before 30.11.2016. He alongwith petitioner went to office on 30.11.2016 on which date they were verbally told that their services were not required w.e.f. 1.12.2016 but no written order was given to them. In his cross-examination, he has stated that petitioner is his wife. The respondent had purchased land from his father in law. He has admitted that he along with his brother Des Raj are working with the respondent and added that they are working in lieu of the land of their father. He has denied that the petitioner had worked with the contractor ASG Transectors w.e.f. 1.6.2013 to 30.11.2013. He has admitted that the settlement had taken place between the Workers Union and the project authorities. He has denied that the company had honored the settlement and offered a sum of Rs.2 lacs plus two months salary to the petitioner along with bonus and balance of leave encashment on 1.12.2016, but she refused to accept the cheques. He has denied that the respondent had displayed the list of unskilled workers on entry gate on 22.11.2022.

15. The petitioner Brahmi Devi appeared as PW1 and filed affidavit Ext. PW1/A in her examination-in-chief wherein she has affirmed all the averments made in the petition on oath. She has also tendered copy of Jamabandi for the years 2015-2016 Ext. PW1/B in evidence. In her cross-examination, she has admitted that Roop Lal and Des Raj are still working with the respondent in lieu of land of her father purchased by the respondent. No identity card was issued by the respondent to her. She has denied that she was engaged through contractor M/s ASG Transerectors and she had no direct connection with the company. She has not produced any wage slip issued in her favour and added that no wage slips was issued in her favour. She did not know that settlement had taken place between the Workers Union and project qua termination of surplus workmen. She has denied that she was offered a cheque of Rs.2 lakh by the company and she refused to accept the cheque on 30.11.2016 and added that her salary for two months was also not paid to her. She has denied that another cheque of Rs.22,212/- of salary of two months i.e. November and December, 2016 plus bonus for the financial years 2015-2016 and balance of leave encashment was also tendered to her but she did not accept the same. She has denied that the company had sent both the cheque through registered letter dated 1.12.2016 but she refused to receive the same. The land was purchased by the company from legal heirs of her father.

16. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all

the averments made in the reply on oath. He has also tendered demand charter Ext. R-1, agreement dated 6.8.2013 Ext. R-2, certificate of registration Ext. R-3, copy of license Ext. R-4, copy of implementation agreement Ext. R-5, copy of pay roll Ext. R-6, attendance sheet Ext. R-7, copy of settlement agreement Ext. R-8, full and final payment Ext. R-9, copy of registered letter Ext. R-10, copy of cheque dated 30.11.2016 of Rs. 2 lac Ext. R-11, other cheque dated 30.11.2016 Ext. R-12, seniority list Ext. R-13, pay sheet October, 2018 Ext. R-14, seniority list as on August 2021 Ext. R-15, copy of Form V Ext. R-16, copy of resolution Ext. R-17 and copy of pay sheet June 2013 Ext. R-18 in evidence. In his cross-examination, he has denied that the respondent company had purchased the land for construction of the project of the company from the father of the petitioner. He has denied that the company had engaged the petitioner in lieu of the land purchased from her father on 1.11.2007. He has denied that the petitioner had continuously worked with the company till 30.11.2016. He has denied that switch yard of the company has been constructed on the land of the father of the petitioner. He has also denied that the services of the petitioner were illegally terminated on 1.12.2016. He has denied that he has made wrong statement that the petitioner was employee of the contractor. They have produced the pay roll Ext. R-6 and attendance sheet Ext. R-7 to prove that the petitioner was employee of the contractor. The full and final settlement Ext. R-9 bears his signatures in red circle. Ext. R-16 Form V also bears his signatures in red circle. He has denied that they had retained workers mentioned in para No.6 of the petition after retrenchment of the petitioner. He has denied that they had not followed the principle of 'last come first go'. He has denied that they had not circulated the seniority list and added that they had displayed the same on the Notice Board of the company. He has admitted that on retrenchment notice Ext. R-16 copy of to Notice Board has not been written. He has denied that the company was not registered as principal employer till May, 2013. He has denied that all the workers engaged in the work of the company from year 2006 to May, 2013 worked on the roll of the company. He has admitted that the pay sheet Ext. R-14 had not been signed by either of the worker. He has denied that they had not discussed the matter relating to date of joining with the parties and cross verified the same as per clause 12 of settlement agreement Ext. R-12. He has admitted that they had not produced any record of such meeting. He has denied that the petitioner had not refused to receive Ext. R-9 and Ext. R-10. He had brought the original of Ext. R-9 and Ext. R-10, Ext. R-11 and Ext. R-12.

17. This is entire evidence led by both the parties on record.

18. Learned Authorized Representative (in short AR) of the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. R-8. The demand notice Ext. R-1 and settlement Ext. R-8 produced by the respondent on record proves that the petitioner was engaged by the respondent and he was the employee of the respondent.

19. Learned Counsel for the respondent vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

20. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in aforesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, the respondent itself has produced documents on record which prove that the petitioner was employee of the respondent.

21. The petitioner (PW1) has stated that she was engaged as worker on 1.11.2007 and her husband Roop Singh PW2 has also stated so, but the petitioner has not led cogent evidence on record to prove that she was engaged on 1.11.2007. She has denied that she was engaged through contractor M/s ASG Transerectors and she had no direct connection with the company and even her husband Roop Singh PW2 has also denied that the petitioner had worked with the contractor ASG Transerectors w.e.f. 1.6.2013 to 30.11.2013, but the petitioner has not produced any documentary evidence on record to prove that she was engaged by the respondent on 1.11.2007. The petitioner thus has not led cogent evidence on record to prove that she was engaged on 1.11.2007, but she has also denied that she was employee of the contractor.

22. On the other hand, the respondent has placed on record the agreement Ext. R-2 entered into with M/s ASG Transerectors on 6.8.2013 for providing manpower as per terms and conditions of the agreement. The respondent has also produced on record copy of licence Ext. R-4 issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. The respondent has not produced renewed licence of M/s ASG Transerectors on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

23. But even if this fact is ignored, even then it would be evident from the perusal of the demand notice Ext. R-1 dated 9.7.2014 issued by Workers Union as well as settlement agreement Ext. R-8 produced and proved on record by the respondent itself, that the petitioner, infact, was engaged by the respondent. As per settlement, demand notice was issued on 17.7.2014 by the Workers Union but during course of the arguments, the learned counsel for the respondent submitted that it was demand notice dated 9.7.2014 and was mistakenly written dated 17.07.2014, which is Ext. R-1 produced on record by the respondent. It would be evident from the perusal of demand notice Ext. R-1 that the Workers Union besides other demands; has raised the demand that the services of the workmen working under the project were illegally placed under the contractor w.e.f. 1.6.2013 and therefore it was requested that all the workmen be treated as company's workers from the date of their initial employment in the project and the salary of the workmen be paid directly by the project management instead of contractor. It would be evident from the perusal of condition No.4 of the settlement Ext. R-8 that it was agreed that the management would take employees on their own rolls and would issue appointment letter, identity card and pay slips after amicable separation of surplus manpower as agreed. It was also agreed that the retrenched employee would be paid Rs.2 lac as full and final settlement amount against separation which in turn clearly goes to show that the demand of the union qua illegally placing the services of the workmen under the contractor was accepted and the employees were agreed to be taken on the rolls of the company, but after separation/retrenchment of the surplus employees and therefore, in such set of such circumstances, the evidence of Brahmi Devi PW1 that she was engaged by the respondent, has to be accepted to be correct, moreso, when the licence of M/s ASG Transerectors had expired on 29.7.2014 and renewed licence was not produced on record and even the contractor was also not examined by the respondent to prove that he was supplying the labour to the Respondent even after 29.7.2014.

24. This apart, there is no reference of any contractor in settlement Ext. R-8 which is document of respondent and the memorandum of settlement does not bear signatures of the contractor. Had the petitioner along-with other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the Workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers, who were to be retrenched.

25. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not produced cogent evidence on record to prove that the monthly wages to the petitioner were paid through contractor from 1.9.2015 to 31.10.2016. The respondent has produced Pay Roll for the

month of July, 2014 Ext. R-6 and attendance record Ext. R-7 of ASG Transerectors, however, the respondent has neither examined the contractor nor the record of contractor was got summoned nor any documents has been produced to prove that the payment, in fact, was made to the workers through M/S ASG Transerectors. This fact could have easily been proved by producing the bank record and therefore, the Pay Roll and attendance record cannot be accepted in proof of the fact that petitioner was engaged by the contractor. Last but not least, the respondent has produced copy of Resolution dated 6.4.2015 Ext. R-17 whereby two Authorised Signatories were authorized to represent the Company in conciliation proceeding before the authorities concerned to execute Memorandum of settlement and other related documents to initiate and complete employee retrenchment process. In Resolution workmen have been referred to as “employees” and there is no reference of M/S ASG Transerectors in the same. Likewise, in Notice of the retrenchment of employee Ext. R-16 given by the respondent to the Govt. of Himachal Pradesh on 01.12.2016 after termination of the service of the petitioner and other workmen on 30.11.2016 on the basis of settlement Ext. RW1/B, the name of the employer has been written “AT Hydro Pvt. Ltd.” i.e. the respondent and there is also no reference of M/S ASG Transerectors in the same, which documents prove on record that the petitioner was engaged by the respondent and she was the employee of the respondent.

26. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. R-8 and therefore he is not entitled to any relief.

27. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh along-with wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.22,212/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but she even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. R-8 and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

28. On the other hand, learned A.R. of the petitioner vehemently contended that the petitioner was not party to the settlement Ext. R-8, but for the sake of arguments, if it is assumed that the settlement Ext. R-8 was arrived in between the Workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has not terminated the services of the petitioner as per terms and conditions of settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per settlement Ext. R-8 was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of ‘last come first go’. The respondent has not produced the list of all the workmen employed in the project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

29. Hon'ble Supreme Court in **ITC Workers Welfare Association and Anr.'s** case supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found

that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of *Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd.* (1991 (1)SCC 4) succinctly summarized the position thus :-

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkatarajah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :—

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs, successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :—

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

30. Thus in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

31. In the case in hand, the validity of the settlement Ext. R-8 has not been assailed by the petitioner; rather the petitioner in rejoinder has admitted that the settlement dated 25.8.2015 had arrived at between the parties during conciliation proceedings and has claimed that the respondent, as per settlement was required to retrench the workmen by following the applicable laws, but the respondent terminated her services in violation of the provisions of Section 25-F and 25-G of the I.D. Act. Hence in view of law laid down by Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the Workers Union under Section 18 (3) of the I. D. Act, it is binding upon the petitioner as well. Consequently, it can safely be held that a valid settlement Ext. R-8 had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. R-8.

32. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that her services were terminated as per settlement Ext. R-8 and therefore the petitioner cannot challenge her termination. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. R-8 which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant. The surplus manpower shall be decided at the discretion of the management by following the applicable laws.
2. The willing workmen shall be given preference for separation (Non Technical Employees).
3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.
6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.
7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).
10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.

15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947”.

33. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws. Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

34. The petitioner was engaged as a workman and therefore, she could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

35. Since, as per settlement Ext. R-8 the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to her as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but she had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

36. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 22.11.2016 the list of the unskilled workers was exhibited at entry gate and they including petitioner were requested to collect their compensation cheques but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were sent to the petitioner through registered post on 1.12.2016 and Nirmal Kumar, RW1 has also stated so, however, the respondent has not led any cogent evidence on record to prove that cheque of Rs.2 lakh, the photocopy whereof is Ext. R-11 and cheque of Rs.22,212/-, the photocopy whereof is Ext. R-12 were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. R-9 with regard to payment of full and final settlement also bears date 30.11.2016, yet the photocopy of postal receipt with photocopy of registered letter Ext. R-10 bears date 30.11.2016. If postal receipt pertains to the registered letter Ext. R-9, the aforesaid cheques along-with letter Ext. R-9 were sent to the petitioner on 30.11.2016 and not on 1.12.2016 as claimed by the respondent, which falsifies the claim of the respondent that the cheques were tendered to the petitioner on 30.11.2016 and she refused to receive the same. There is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques

were tendered to her on 30.11.2016 as she has denied that the cheques were tendered to her on 30.11.2016. The respondent even in letter Ext. R-9 had not written that the cheques were tendered to the petitioner on 30.11.2016 but she refused to receive the same. Hence it is established on record that the wages in lieu of notice period as well as compensation was not paid to the petitioner on 30.11.2016.

37. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when she was asked to go i.e. 30.11.2016, it can safely be concluded that the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. R-8.

38. The petitioner, however, has not led any cogent evidence to prove that the respondent has retained workmen junior to her in service while terminating her services and has violated the principle of 'last come first go'. The petitioner has stated that the respondent has retained junior to her namely Sukhdev, Hari Lal, Roop Lal, Jagdish, Sukh Lal, Deep Raj and Hans Raj in service while terminating her services. The petitioner, as has been observed above, has not led cogent evidence on record to prove that she was engaged on 1.11.2007 and as per seniority list Ext. R-13, the petitioner was engaged on 01.06.2013 and all the aforesaid workmen were engaged during the period from 01.02.2010 to 01.06.2013 and thus as per seniority list Ext. R-13, the respondent has not retained any junior to the petitioner while terminating her services and therefore violation of Section 25-G is not proved.

39. The petitioner has also taken plea that the respondent has acquired/taken land of her father and assured her that they would provide employment to her for a period of 40 years and accordingly respondent has engaged her on 1.11.2007, however, the petitioner has not led cogent evidence to prove the same except Jamabandi for the year 2015-16 Ext. PW1/B wherein the petitioner alongwith other co-sharers has been recorded owner of the land comprising Khata No.28, but it has been recorded in possession of Electricity Department and not the respondent. The petitioner herself, in her cross-examination, has admitted that Roop Singh (her husband) and Des Raj are still working with the respondent in lieu of land of her father purchased by the respondent. Though her husband Roop Singh PW2 has stated that he alongwith brother Des Raj are working with the respondent in lieu of land of their father purchased by the respondent, yet his statement to this effect being contrary to the statement of petitioner, cannot be accepted. Hence in view of statement of the petitioner that Roop Singh and Des Raj were given employment in lieu of land of her father purchased by the respondent, she is not entitled to any relief on this count, moreso, when she has not produced and proved any such undertaking of the respondent on record.

40. The petitioner, thus, has proved on record that the respondent has terminated his services in violation of the terms and conditions of settlement Ext. R-8 and the provisions of Section 25-F of the I. D. Act.

41. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal 2014 7 SCC 177** in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural

defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In *Man Singh (supra)* which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

42. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517.**

43. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in

violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

44. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

45. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. R-8 arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, issues No.1 and 2 are partly decided in favour of the petitioner and issue No.4 is decided against the respondent and are answered as such.

Issue No.3

46. In view of my findings returned on the issues No.1 and 2 above, the petition is maintainable. Hence this issue is decided against the respondent and answered in negative.

Issue No.5

47. In view of my findings on issues No.1 and 2, the petitioner has proved cause of action to file the present petition. Hence this issue is decided against the respondent and is answered in the negative.

Issue No.6

48. The petitioner has raised the industrial dispute and the appropriate Government has made reference to this court for adjudication and therefore this court has jurisdiction to try the present case. Hence issue No.6 is decided against the respondent and is answered in negative.

Issue No.7

49. It is fairly well settled by now that no period of limitation prescribed under the I.D. Act for making reference under Section 10 of the I.D. Act. Even otherwise, the services of the petitioner were terminated on 1.12.2016 and has raised the industrial dispute in the year 2017 and therefore the claim of the petitioner is not time barred. Hence issue No.7 issue is decided against the respondent and is answered in negative.

Relief

50. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of her services in violation of the provisions of Section 25-F of the I.D.Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

51. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 99/2018

Date of Institution :29.12.2018

Date of Decision : 30.4.2024

Shri Chuni Lal s/o Shri Dhayan Singh, r/o Village Guwari, P.O. Tarella, Tehsil Churah,
District Chamba, H.P.*Petitioner* .

Versus

The Employer/ Managing Director, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah,
District Chamba, H.P.*Respondent*.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P.Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether termination of services of Sh. Chuni Lal S/o Sh. Dhayan Singh, R/O Village Guwadi, P.O. Tarella Tehsil Churah Distt. Chamba, H.P. w.e.f.1/12/2016 by the Employer / Managing Director, M/S AT Hydro Project Pvt. Ltd. Upper Tarella, P.O. Tarella, Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on daily wage basis as labourer on muster roll by the respondent without any appointment letter in the year 2008. After his engagement an official of the company had executed Affidavit for providing job to him for 40 years as land of his father was taken by the respondent company for construction of project. He initially was paid Rs.4500/- as salary and he was receiving Rs.6960/- per month at the time of termination of his services by the respondent on 1.12.2016. After termination of his services, he approached the respondent time and again to re-engage him but the respondent did not pay any heed to his requests. The State of H.P. has framed the policy for regularization of daily wage workers. As per policy, the worker is required to work for 240 days in each calendar year. The respondent did not disclose actual number of days before Conciliation Officer. The respondent has given fictional breaks in his services and retrenched him without giving one month's notice or retrenchment compensation to him. The respondent retained workmen junior to him in service and thus principle of 'last come first go' has been violated by the respondent. The persons whose services were illegally terminated by the respondent with him, have been re-engaged. The respondent has also engaged new workman from time to time after terminating his services without giving him an opportunity of re-employment. He never remained absent from duty since his engagement till the date of illegal termination of his services. The respondent had given fictional breaks in his services intentionally so that he might not complete 240 days in each calendar year. Had his services not been terminated illegally and fictional breaks were not given in his service, he would have completed 8 years of continuous service as on 31.12.2013 and would have become entitled to work charge status/regularization w.e.f. 1.1.2014. He was never charged sheeted for any act of indiscipline, negligence of work or misconduct. He worked with full devotion and thus the verbal order of termination of his services is illegal, highly unjustified and also against the principle of natural justice. He is unemployed since 1.12.2016. He requested the respondent orally as well as in writing to re-engage him, but despite repeated requests, the respondent did not engage him. The action the respondent is malafide, arbitrary, unconstitutional, illegal, highly unjustified and against the principle of natural justice which amounts to unfair labour practice. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, jurisdiction, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been denied that the petitioner was engaged in the year 2008 and he was working since then. It has been averred that the petitioner, infact, was never engaged on 01.06.2013 alongwith other workers through contractor M/s ASG Transerectors. It has been denied that after engaging the petitioner affidavit was executed. However, it has been averred that after signing of the settlement agreement dated 25.8.2015, the affidavit has no value in the eyes of law. It has also been denied that the salary of the petitioner in the month of June 2013 was Rs.5488/- and in December, 2016 was Rs.6320/- per month. It has been averred that Trade Union Mahal Nag, Tarela VPO and Tehsil Churah, District Chamba H.P. (hereinafter in short is referred to as the Workers Union) has raised industrial dispute under Section 2(k) of the I.D. Act vide demand notice dated 09.7.2014 whereby they had raised demand on behalf of the workers employed by M/s ASG Transerectors at the project site. The Workers Union had raised demand before the Labour-cum-Conciliation Officer, Chamba. In the course of conciliation, the management informed that the existing 76 workers deployed at 5 MW Small Hydro project were more than the requirement. The management proposed to rationalize the unskilled manpower engaged in the plant. The Workers Union alongwith their workers had appealed to the management to employ them directly instead of the contractors. After mutual and amicable discussions in the conciliation proceedings, the authorized representative of the Workers Union and the respondent company signed memorandum of settlement on 25.8.2015 in presence of Labour-cum-Conciliation Officer Chamba under Section 12(3) of the I.D. Act. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each unskilled worker and it was also agreed that the surplus manpower shall be decided at discretion of the management.

On 22.11.2013, the management exhibited seniority list of unskilled workers and requested petitioner to collect the compensation but he refused to receive the same. On 1.12.2016, one compensation cheque of Rs.2,00,000/- and one another cheque of Rs. 15619/- of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner through registered post. Hence the allegations of the petitioner that he was verbally terminated are not supported by facts. The petitioner was offered compensation as per memorandum of settlement and has been retrenched as per settlement and provisions of Section 25-F of the I.D.Act and the principle of 'last come first go' has not been violated. It has also been denied that the respondent had engaged new workmen after 1.12.2016. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 29.07.2022:—

1. Whether termination of the services of the petitioner w.e.f. 01.12.2016 by the respondent is /was illegal and unjustified, as alleged? ..*OPP*.
2. If issue no. 1 is proved in the affirmative, to what services benefits the petitioner is entitled to? ..*OPP*.
3. Whether the claim petition is not maintainable as alleged? ...*OPR*.
4. Whether the petitioner through the representative of the union had agreed to accept Rs. 2 lakh as full and final compensation as unskilled workers as claimed?...*OPR*.
5. Whether the petitioner has wrongfully refused to accept the aforesaid amount along-with the salary when such amount was tendered to him vide cheque in December 2016? ...*OPR*.
6. Whether the services of the petitioner have been retrenched as per the memorandum of settlement and in compliance to the provisions of Section 25-F? ...*OPR*.

Relief.

7. The petitioner was called upon to lead evidence. The petitioner appeared as PW1 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Compensation

Issue No.3 :No

Issue No.4 :Yes

Issue No.5 :No

Issue No.6 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1, 2, 4, 5 & 6

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was engaged on 1.6.2013 through contractor M/s ASG Transerectors.

14. The petitioner Chuni Lal in substantiation of his claim appeared as PW1 and filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has also tendered another affidavit Ext. PW1/B and copies of salary slips Ext. PW1/C1 to Ext. PW1/C19 in evidence. In his cross-examination he has admitted that there is no mention of guarantee of job for 40 years to land oustees or their kiths and kins in the affidavit. He was not having any identity card issued by the company. He did not know that the salary slips Ext. PW1/C1 to Ext. PW1/C18 were issued by the contractor and not by the company and added that he did not as to who had paid the salary. He had denied that he was employee of the contractor and had nothing to do with the company. He was not aware of the fact that compromise had taken place between the company and office bearer of Workers Union of contractor before the Conciliation Officer whereby compensation of Rs. 2 lakh was agreed to be paid to the workers and their services were to be terminated at the discretion of the company. He was also not aware that the company had displayed the list of workers, who were retrenched, on the notice board. He has denied that the company had sent the cheque of Rs. 2 lakh by post at his address but he had refused to accept the same. The land purchased by the company belonged to his father. He has not placed on record Jamabandi and Sale Deed the said land. He is unemployed these days.

15. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered memorandum of settlement Ext. RW1/B, demand charter Ext. RW1/C, certificate of registration Ext. RW1/D, implementation agreement Ext. RW1/E, agreement with contractor Ext. RW1/F, labourer licence of contractor Ext. RW1/G, attendance chart/pay sheets Ext. RW1/H1 to Ext. RW1/B13, another pay sheets Ext. RW1/J1 to Ext. RW1/J2, pay sheets Ext. RW1/K1 to Ext. RW1/K2, postal receipt Ext. RW1/L, letter dated 30.11.2016 Ext. RW1/M, original cheques are Ext. RW1/N and Ext. RW1/O, envelop

in which cheques were sent Ext. RW1/P, pay sheet for month of March 2021 Ext. RW1/R1 and Ext. RW1/R2, Form V Ext. RW1/S1 to Ext. RW1/S2, pay roll for July 2014 Ext. RW1/T1 to Ext. RW1/T7, pay roll December, 2014 Ext. RW1/U1 to U3, pay roll of month of February 2015 Ext. RW1/V1 to V3, pay roll for March 2015 Ext. RW1/W1 to W3 and resolution Ext. RW1/X in evidence. In his cross-examination, he has denied that the company had engaged around 150 workers and added that the workers were engaged through contractor. He has admitted that they have not placed details of the contractor working with them in the year 2007. He has denied that the petitioner had worked from 2008-09 to December, 2016 in continuity. He has denied that they have not paid the salary for November and December, 2016 to the petitioner and added that they had sent the same through cheques but the petitioner had refused to accept the same. He has admitted that the respondent had not given one month's advance notice to the petitioner and added that they have paid wages for the notice period through cheque. He did not know that as per document Ext. PW2/B, the petitioner was supposed to work for 40 years with the respondent company. He has denied that settlement dated 25.8.2015 had taken place without consent of the petitioner and he was not present at that time. The company had engaged two contractors and name of one contractor was Rakesh Pathania. He did not remember the name of another contractor. He has admitted that Rakesh Pathania has not been cited as witness in this case. He has denied that after termination of the services of the petitioner, they have engaged Tek Chand, Sukh Lal and Suni Ram. He has further stated that the company presently was having 42 employees. He did not know whether any memorandum of settlement was entered into between the contractor and the petitioner. He did not know as to whether this memorandum was produced during the conciliation proceedings or not. He has denied that it was agreed in the memorandum of settlement that only those workers, who were willing to leave the work at their free will, would be terminated. He has admitted that they had not sent notice of change of service to the petitioner. He did not know whether the Government had issued notification on the basis of conciliation proceedings or not. He has admitted that memorandum of settlement has not been signed by the contractor. He has admitted the licence Ext. RW1/E was issued for one year and added that it was renewed from year to year. He, however, has admitted that renewed licence has not been placed on record. He has denied that no cheque was sent to the petitioner. The workers shown in the Ext. RW1/R1 to Ext. RW1/R2 are still working with the company.

16. This is entire evidence led by both the parties on record.

17. Learned Counsel for the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. RW1/B and that the demand notice Ext. RW1/C and settlement Ext. RW1/B and other documents produced by the respondent on record prove that the petitioner was engaged by the respondent and he was the employee of the respondent.

18. Learned Counsel for the respondent has vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove the same; rather the pay slips Ext. PW1/C1 to Ext. PW1/C20 produced on record by the petitioner proves that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

19. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in aforesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, the respondent itself has produced documents on record which prove that the petitioner was employee of the respondent.

20. The petitioner (PW1) has stated that he was engaged by the respondent in the year 2008, but he has produced the pay slips Ext. PW1/C1 to Ext. PW1/C20 w.e.f June 2013 to January, 2015 only which have been issued by M/s ASG Transerectors Sultanpur, however, he has stated that he was not aware that the same were issued by the contractor and not by the company. He has also denied that he was employee of the contractor. The petitioner has not produced any documentary evidence on record to prove that he was engaged by the respondent in the year 2008. The petitioner thus has not produced cogent evidence on record to prove that he was engaged in the year 2008, but he has also denied that he was employee of the contractor.

21. On the other hand, the respondent has placed on record the agreement Ext. RW1/F entered into with M/s ASG Transerectors on 6.8.2013 for providing manpower as per terms and conditions of the agreement. The respondent has also produced on record copy of licence Ext. RW1/G issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. Nirmal Kumar, RW1 in his cross-examination has admitted that the licence Ext. RW1/G was issued for one year. Though he has added that it was renewed from year to year yet he has also admitted that renewed licence has not been produced on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

22. But even if this fact is ignored, even then it would be evident from the perusal of the demand notice Ext. RW1/C dated 9.7.2014 issued by Workers Union as well as settlement agreement Ext. RW1/E produced and proved on record by the respondent that the petitioner, infact, was engaged by the respondent. The demand notice Ext. RW1/C was issued on 9.7.2014. As per settlement, demand notice was issued on 17.7.2014 by the Workers Union but during course of the arguments, the learned counsel for the respondent submitted that it was demand notice dated 9.7.2014 and was mistakenly written dated 17.07.2014, which is Ext. RW1/C produced on record by the by the respondent. It would be evident from the perusal of demand notice Ext. RW1/C that the Workers Union besides other demands, has raised the demand that the services of the workmen working under the project were illegally placed under the contractor w.e.f. 1.6.2013 and therefore it was requested that all the workmen be treated as company's workers from the date of their initial employment in the project and the salary of the workmen be paid directly by the project management instead of contractor. It would be evident from the perusal of condition No.4 of the settlement Ext. RW1/E that it was agreed that the management would take employees on their own rolls and would issue appointment letter, identity card and pay slips after amicable separation of surplus manpower as agreed. It was also agreed that the retrenched employee would be paid Rs.2 lac as full and final settlement amount against separation which in turn clearly goes to show that the demand of the union qua illegally placing the services of the workmen under the contractor was accepted and the employees were agreed to be taken on the rolls of the company, but after separation/retrenchment of the surplus employees and therefore, in such set of such circumstances, the evidence of Chuni Lal PW1 that he was engaged by the respondent, has to be accepted to be correct, moreso, when the licence of M/s ASG Transerectors had expired on 29.7.2014 and renewed licence was not produced on record and even the contractor was also not examined by the respondent.

23. This apart, there is no reference of any contractor in settlement Ext. RW1/B which is document of respondent and Nirmal Kumar, RW1, as has been observed above, in his cross-examination has stated that the memorandum of settlement did not bear signatures of the contractor. Had the petitioner alongwith other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers, who were to be retrenched.

24. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not

produced cogent evidence on record to prove that the monthly wages to the petitioner were paid through contractor from 1.9.2015 to 30.09.2016. Though in pay sheet Ext. RW1/J-1 to J-2 for the month of Oct., 2016, in which petitioner is shown at Sr.No. 44, the name of M/S ASG Transerectors has been written, but the same do not bear any seal or stamp of M/S ASG Transerectors nor it has been signed by anyone. Like wise pay sheets for the month of June, 2013 Ext. RW1/H-1 to H-13 do not bear stamp and seal of M/S ASG Transerectors nor it appears to have been signed by any official of the said Firm, though it has been verified by someone. The respondent has also produced the pay sheet for the month of July, 2014 Ext. RW1/T-1 to T-7, Pay Rolls for the month of December, 2014 Ext. RW1/U1 to U-3, Pay Rolls for the month of Feb, 2015 Ext. RW1/V1 to V3 and Pay Rolls for the month of March, 2015, however, the respondent has neither examined the contractor nor the record of contractor was got summoned nor any documents has been produced to prove that the payment, in fact, was made to the workers through M/S ASG Transerectors. This fact could have easily been proved by producing the bank record and therefore, these Pay Rolls cannot be accepted in proof of the fact that petitioner was engaged by the contractor. Last but not least, the respondent has produced copy of Resolution dated 6.4.2015 Ext. RW1/X whereby two Authorised Signatories were authorized to represent the Company in conciliation proceeding before the authorities concerned to execute Memorandum of settlement and other related documents to initiate and complete employee retrenchment process. In Resolution workmen have been referred to as “employees” and there is no reference of M/S ASG Transerectors in the same. Likewise, in Notice of the retrenchment of employee Ext. RW1/S1 to S2 given by the respondent to the Govt. of Himachal Pradesh on 01.12.2016 after termination of the service of the petitioner and other workmen on 30.11.2016 on the basis of settlement Ext. RW1/B, the name of the employer has been written “AT Hydro Pvt. Ltd.” i.e. the respondent and there is also no reference of M/S ASG Transerectors in the same which documents prove on record that the petitioner was engaged by the respondent and he was the employee of the respondent.

25. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. RW1/B and therefore he is not entitled to any relief.

26. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh along-with wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.15619/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but he even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. RW1/B and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

27. On the other hand, learned counsel for the petitioner vehemently contended that the petitioner was not party to the settlement Ext. RW1/B, but for the sake of arguments, if it is assumed that the settlement Ext. RW1/B was arrived in between the Workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has not terminated the services of the petitioner as per terms and conditions of the settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per settlement Ext. RW1/B was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of 'last come first go'. The respondent has not produced the list of all the workmen employed in the

project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

28. Hon'ble Supreme Court in **ITC Workers Welfare Association and Anr.'s** case supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on the which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of *Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd.* (1991 (1)SCC 4) succinctly summarized the position thus :-

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkata-ramiah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :-

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs,

successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :-

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

29. Thus, in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

30. In the case in hand, the validity of the settlement Ext. RW1/B has not been assailed; rather the petitioner in rejoinder has pleaded that the settlement dated 25.8.2015 is related to different demands of the workers and the separation of surplus manpower, who were terminated in the year 2014 and has further claimed that since his services were terminated, the management and Workers Union settlement dated 25.8.2015 (Ext. RW1/B) is not applicable to the present case. The

petitioner though has tried to assail the same on the ground that he has not signed the same, yet in view of law laid down by the Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the Workers Union under Section 18 (3) of the I. D. Act, it is binding upon the petitioner as well.

31. So far as the plea of the petitioner that it is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014, is concerned, the same is also not tenable as the Workers Union, as has been observed above, vide demand charter Ext. RW1/C, had not raised any demand with regard to the workers terminated in the year 2014 nor there was any settlement with regard to the workmen retrenched in the year 2014; rather, on the demands having been raised by the Workers Union, it was agreed between the parties that the surplus manpower shall be decided at the discretion of the management by following the applicable laws. Hence this plea of the petitioner cannot be accepted. Consequently, it can safely be held that a valid settlement Ext. RW1/C had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. RW1/C.

32. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that his services were terminated as per settlement Ext. RW1/C and therefore the petitioner cannot challenge the same. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. RW1/B which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant. The surplus manpower shall be decided at the discretion of the management by following the applicable laws.
2. The willing workmen shall be given preference for separation (Non Technical Employees).
3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.
6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.
7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus

manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).

10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.
15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947”.

33. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws. Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

34. The petitioner was engaged as workman and therefore, he could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

35. Since, as per settlement Ext. RW1/B the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to him as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but he had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

36. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 22.11.2013 the seniority list of the unskilled workers was notified and the petitioner was requested to collect his compensation cheque and salary cheque but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of Rs. 15,619/- of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were sent to the petitioner through registered post on 1.12.2016. But Nirmal Kumar, RW1 has stated that on 30.11.2016, the list of workers of M/s ASG Contractor was notified and all persons including petitioner were requested to collect their compensation cheques, but he refused. Even if the contradiction with regard to date of notifying the workers list is ignored, even then the respondent has not led any cogent evidence on record to prove that the cheque of Rs.2 lakh Ext. RW1/N and cheque of Rs.15,619/- Ext. RW1/O were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. RW1/M with regard to payment of full and final settlement also bears date 30.11.2016, yet the registered letter Ext. RW1/P bears postal stamp dated 21.12.2016 which means that the aforesaid cheques alongwith letter Ext. RW1/P were not sent to the petitioner on 1.12.2016 as claimed by the respondent, but on 21.12.2016. There is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques were handed over to him on 30.11.2016 as the petitioner Chuni Lal was not suggested that the cheques were handed over to him on 30.11.2016; rather he was suggested that the respondent had sent the cheques amounting to Rs.2 lakhs by post at his residence and he refused to receive the same, which was denied by him. Hence, the respondent failed to prove that the petitioner has refused to receive /accept the cheques. The respondent in letter Ext. RW1/P has not written that the cheque of Rs.2 lakh Ext. RW1/N and cheque of Rs.15,619/- Ext. RW1/O were tendered to the petitioner on 30.11.2016 but he refused to receive the same. Hence the respondent failed to prove that cheque of Rs.2 lakh Ext. RW1/N and cheque of Rs.15,619/- Ext. RW1/O were tendered to the petitioner on 30.11.2016 but he refused to receive the same and as such it can safely be held that the wages in lieu of notice period as well as compensation were not paid to the petitioner on 30.11.2016.

37. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when he was asked to go i.e. 30.11.2016, it can safely be concluded that the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. RW1/B.

38. The petitioner, however, has not led any cogent evidence to prove that the respondent has retained workmen junior to him in service while terminating his services and has violated the principle of 'last come first go' and therefore violation of Section 25-G is not proved.

39. The petitioner has also taken plea that the Manager of the respondent company vide affidavit, the copy whereof Ext. PW1/B on record, has undertaken to provide job to him for a period for 40 years as the land of his father was taken for the construction of the project, however, the petitioner has not produced any document except affidavit on record to prove that the land of his father was acquired / taken by the respondent. The petitioner, in his cross-examination, has admitted that there is no mention of guarantee of job for 40 years in the affidavit. In affidavit Ext. PW1/B, the Manager had stated that the company would provide employment to the owners of the land whose land would be acquired or used for construction of project. The petitioner has not led any cogent evidence to prove that land of his father or his ancestral land was acquired or used for construction of the project and therefore he is not entitled to any relief on this count.

40. Thus, in view of my above observation, it is established on record that the petitioner through representative of the Workers Union had agreed to accept Rs. 2 lakh as full and final compensation against the retrenchment, however, the petitioner has not refused to accept the cheques of compensation amount as well as wages in lieu of notice period as alleged. The respondent has neither issued one month's notice to the petitioner nor paid one month's wages in lieu of notice period nor has paid compensation to the petitioner on 30.11.2016 and thus the respondent has not terminated the petitioner as per settlement Ext. RW1/B as well as the provisions of Section 25-F of the I. D. Act.

41. Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal** 2014 7 SCC 177 in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the

respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In *Man Singh (supra)* which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

42. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517**.

43. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

44. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

45. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. RW1/B arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, issues No.1 and 2 are partly decided in favour of the petitioner, issue No.4 decided in favour of the respondent and issues No.5 & 6 are decided against the respondent and are answered as such.

Issue No. 3

46. In view of findings of the issues above, the claim petition is maintainable, hence this issue is decided against the respondent and answered in negative.

Relief

47. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of his services in violation of the provisions of Section 25-F of the I.D.Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

48. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 66/2018

Date of Institution : 11.7.2018

Date of Decision : 30.4.2024

Shri Man Singh s/o Shri Manorath r/o Village Mansa, P.O. Tarella, Tehsil Churah, District
Chamba, H.P.*Petitioner* .

Versus

The Manager, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah, District Chamba, H.P.
....*Respondent* .

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P.Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the termination of the services of Sh. Man Singh S/o Sh. Manorath, Village Mansa, P.O. Tarella Tehsil Churah Distt. Chamba, H.P. from 1/12/2016 (as alleged by the workman) by the Manager AT Hydro Pvt. Ltd. Tarella, Pargna, Sei Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on daily wage basis as labourer on muster roll by the respondent without any appointment letter in the year 2007. After his engagement an official of the company had executed Affidavit on 18.07.2007 for providing job to him for 40 years as land of his wife Taro Devi was taken by the respondent company for construction of project. He initially was paid Rs.4500/- as salary and he was receiving Rs.6960/- per month at the time of termination of his services by the respondent on 1.12.2016. After termination of his services, he approached the respondent time and again to re-engage him but the respondent did not pay any heed to his requests. The State of H.P. has framed the policy for regularization of daily wage workers. As per policy, the worker is required to work for 240 days in each calendar year. The respondent did not disclose actual number of days before Conciliation Officer. The respondent has given fictional breaks in his services and retrenched him without giving one month's notice or retrenchment compensation to him. The respondent retained workmen junior to him in service and thus principle of 'last come first go' has been violated by the respondent. The persons, whose services were illegally terminated by the respondent with him, have been re-engaged. The respondent has also engaged new workman from time to time after terminating his services without giving him an opportunity of re-employment. He never remained absent from duty since his engagement till the date of illegal termination of his services. The respondent had given fictional breaks in his services intentionally so that he might not complete 240 days in each calendar year. Had his services not been terminated illegally and fictional breaks were not given in his service, he would have completed 8 years of continuous service as on 31.12.2014 and would have become entitled to work charge status/regularization w.e.f. 1.1.2015. He was never charged sheeted for any act of indiscipline, negligence of work or misconduct. He worked with full devotion and thus the verbal order of termination of his services is illegal, highly unjustified and also against the principle of natural justice. He is unemployed since 1.12.2016. He requested the respondent orally as well as in writing to re-engage him, but despite repeated requests, the respondent did not engage him. The action the respondent is malafide, arbitrary, unconstitutional, illegal, highly unjustified and against the principle of natural justice which amounts to unfair labour practice. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, jurisdiction, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been denied that the petitioner was engaged in the year 2007 and he was working since then. It has been averred that the petitioner, infact, was never engaged by the respondent company; rather the petitioner was employed by the contractor M/s ASG Transerectors, during construction of the project. It has been denied that after engaging the petitioner affidavit was executed on 18.07.2007. However, it has been averred that after signing of the settlement agreement dated 25.8.2015, this affidavit has no value in the eyes of law. It has also been denied that the salary of the petitioner in the month of June 2013 was Rs.5960/- and in December, 2016 was Rs.7301/- per month. It has been averred that Trade Union Mahal Nag, Tarela VPO and Tehsil Churah, District Chamba H.P. (hereinafter in short is referred to as the Workers Union) has raised industrial dispute under Section 2(k) of the I.D. Act vide demand notice dated 17.7.2014 whereby they had raised demand on behalf of the workers employed by M/s ASG Transerectors at the project site. The contractor M/s ASG Transerectors was not responding to the demands of its workers and the workers were agitating at the project site. The Workers Union had raised demand before the Labour-cum-Conciliation Officer, Chamba. Under these circumstances, they attended the meeting called by the Conciliation Officer. After protracted negotiations between the parties in the presence of the Conciliation Officer, the management informed the Workers Union and Conciliation Officer that the existing 76 workers deployed by various contractors were more than the requirement at 5 MW Small Hydro project. After commissioning of the project, the contractors would be disengaged and they would not require the manpower. The Worker Union alongwith their workers had appealed to the

management to take employees of the contractors on the rolls of company. They have also raised certain demands including payment of higher wages. During conciliation proceedings, it was made it clear that they would not employ the contractor employees because post commissioning of the project they would not require unskilled manpower and the project would become economically unviable if they would employ more than minimum required manpower. Subject to this condition, it was agreed to consider other demands raised by the Workers Union, though the respondent was not illegally bound to consider their demands as they were workers of the contractors. After mutual and amicable discussions in the conciliation proceedings, the authorized representative of the Workers Union and the respondent company signed memorandum of settlement on 25.8.2015 in the presence of Labour-cum-Conciliation Officer Chamba under Section 12(3) of the I.D.Act. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each employee of the contractor and it was also agreed that the manpower who were engaged by the contractor would be paid compensation at the discretion of the management. On 30.11.2016, as per agreement, it notified, a list of the workers of the contractor M/s ASG Contractor as per record available with it and requested all persons to collect their compensation including the petitioner, but he refused to receive the same. The respondent had agreed to pay compensation on humanitarian ground and to bring peace in the project site. On 1.12.2016, cheque amounting to Rs.2,00,000/- as compensation and one another cheque of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner by post. Hence the allegations of the petitioner that he was not paid salary for the month of November, 2016 are false and baseless. The petitioner was offered compensation as per memorandum of settlement. It was under no obligation to comply with the provisions of Section 25-F of the I.D.Act as the petitioner was not employed by the company. It has also been denied that the respondent had engaged new workmen after 1.12.2016. Since the petitioner was not the employee of the company, there was no question to pay retrenchment compensation or to comply with the provisions of Sections 25-F and 25-G of the I.D.Act. The petitioner was paid salary for two three months equivalent to retrenchment compensation as an abundant caution for compliance of provisions of Section 25 of I. D. Act as the contractor was not responding to the notices issued by the Conciliation Officer. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 7.1.2020:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent on 01-12-2016, as alleged. If so, its effect? ..*OPP.*
2. Whether full and final settlement had taken place in between the parties on 25-08-2015, as alleged. If so, its effect? ..*OPR.*
3. Whether there exists no relationship of employer and employee in between the petitioner and respondent, as alleged? ..*OPR.*
4. Whether the petitioner has no cause of action to file the present case, as alleged? ..*OPR.*
5. Whether this Tribunal has no jurisdiction to try the present case, as alleged? ..*OPR.*
6. Whether the claim petition is time barred, as alleged? ..*OPR.*

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides himself, has examined one Bhagwan Singh as PW2 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Partly yes

Issue No.3 :No

Issue No.4 :No

Issue No.5 :No

Issue No.6 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was employed by contractor M/s ASG Transerectors.

14. The petitioner, in order to prove his claim, has examined one Bhagwan Singh, Pradhan, Gram Panchayat Gulla, Tehsil Churah, District Chamba, H.P. as PW2 who has filed affidavit Ext. PW2/A in his examination-in-chief wherein he categorically has stated that the petitioner was engaged as daily wage worker on muster roll without any appointment letter in the year 2007 and his services were orally terminated on 1.12.2016. In his cross-examination, he has admitted that the construction of the project was completed in the year 2009 and generation of electricity was started. He did not know that the company had employed 400 to 500 workers through the contractor in those days. He did not know whether muster roll was issued to the petitioner and added that he had

seen him working at site. He however, feigned ignorance that the petitioner was engaged by the contractor M/s ASG Transerectors.

15. The petitioner Man Singh appeared as PW1 and filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has also tendered copies of salary slips Ext. PW1/B1 to Ext. PW1/B14, demand notice Mark-A, letter of Labour Officer Ext. PW1/C, reply to demand notice Mark-B, rejoinder to the reply of demand notice Mark-c and copy of affidavit Ext. PW1/D in evidence. In his cross-examination, he has admitted that it has been mentioned in the affidavit Ext. PW1/D that Rules framed by the Himachal Pradesh Government relating to employment with Company and the Company's Rules and Conditions of employment shall be applicable and added that it has also been mentioned in the affidavit that he would be given employment for 40 years. He did not know that the employment was agreed to be provided as per memorandum of understanding with the Government till the construction of the project. He has denied that the project was constructed in the year 2009 and generation of electricity was started in the year 2009. He has denied that he was employed by the contractor. He has denied that he worked with the contractor M/s ASG Transerectors and he was paid salary by the said contractor. He has also denied that there was Workers Union of the workers namely Mahal Nag AT Hydro Project Workers (Regd.) Union, Tarela. He did not know that Workers Union had given demand charter to the Labour Officer and Labour Officer had called the parties for conciliation. He did not know that the settlement was arrived at between the Workers Union and respondent before Labour Officer and as per settlement, Rs.2,00,000/- were agreed to be paid to the retrenched workers. He did not know that the company was vested with the discretion to retrench the workers as per the settlement. He did not know that the respondent had displayed the list of surplus workers on 30.11.2016. He has denied that the respondent had sent cheque of Rs.2,00,000/- along with salary for the months of November and December, 2016 to him. He has not produced any proof of the title of land purchased by respondent and added that said land was in the name of his wife. He has denied that the pay slips Ext. PW1/B1 to Ext. PW1/B14 were issued by the contractor ASG Transerectors and added that the respondent company used to issue these receipts.

16. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered attendance chart/pay sheets Ext. RW1/B1 to Ext. RW1/B25, memorandum of settlement Ext. RW1/C, demand charter Ext. RW1/D, labourer licence of contractor Ext. RW1/E, list of workers Ext. RW1/F, implementation agreement Ext. RW1/G, agreement with contractor Ext. PW1/H, envelop in which cheques were sent Ext. RW1/J, original cheques Ext. RW1/K and Ext. RW1/L and letter dated 30.11.2016 Ext. RW1/M in evidence. In his cross-examination, he has denied that the company had engaged around 150 workers and added that the workers were engaged through contractor. He has admitted that they have not placed details of the contractor working with them in the year 2007. He has denied that the petitioner had worked from 2008-09 to December, 2016 in continuity. He has denied that they have not paid the salary for November and December, 2016 to the petitioner and added that they had sent the same through cheques but the petitioner had refused to accept the same. He has admitted that the respondent had not given one month's advance notice to the petitioner and added that they have paid wages for the notice period through cheque. He did not know that as per document Ext. PW2/B, the petitioner was supposed to work for 40 years with the respondent company. He has denied that settlement dated 25.8.2015 had taken place without consent of the petitioner and he was not present at that time. The company had engaged two contractors and name of one contractor was Rakesh Pathania. He did not remember the name of another contractor. He has admitted that Rakesh Pathania has not been cited as witness in this case. He has denied that after termination of the services of the petitioner, they have engaged Tek Chand, Sukh Lal and Suni Ram. He has further stated that the company presently is having 42 employees. He did not know as to whether

any memorandum of settlement was entered into between the contractor and the petitioner. He did not know as to whether this memorandum was produced during the conciliation proceedings or not. He has denied that it was agreed in the memorandum of settlement that only those workers, who were willing to leave the work at their free will, would be terminated. He did not know whether the Government had issued notification on the basis of conciliation proceedings or not. He has admitted that memorandum of settlement has not been signed by the contractor. He has admitted the licence Ext. RW1/E was issued for one year and added that it was renewed from year to year. He, however, has admitted that renewed licence has not been placed on record. He has denied that no cheque was sent to the petitioner. The workers shown in the Ext. RW1/F are still working with the company. He has admitted that he has not brought original cheque book of cheques Ext. RW1/K and Ext. RW1/L. He did not remember about the endorsement in red circle on Ext. RW1/J and added that it was made by the official of the postal department. He has admitted that they have not summoned any witness from postal department and added that they could not find the person who had made this endorsement.

17. This is entire evidence led by both the parties on record.

18. Learned Counsel for the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. RW1/C. The demand notice Ext. RW1/D and settlement Ext. RW1/C produced by the respondent on record proves that the petitioner was engaged by the respondent and he was the employee of the respondent.

19. Learned Counsel for the respondent has vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove the same; rather the pay slips Ext. PW1/B1 to Ext. PW1/B14 produced on record by the petitioner proves that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

20. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in abovesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, the respondent itself has produced documents on record which prove that the petitioner was employee of the respondent.

21. The petitioner (PW1) has stated that he was engaged by the respondent in the year 2007 and his witness Bhagwan Singh PW2 has also stated so. The petitioner has produced the pay slips Ext. PW1/B1 to Ext. PW1/B14 only which have been issued by M/s ASG Transerectors Sultanpur, however, the petitioner has stated that the same were issued by the respondent company and he has denied that he was employed by the contractor. The petitioner has not produced any documentary evidence on record to prove that he was engaged by the respondent in the year 2007. The petitioner thus has not produced cogent evidence on record to prove that he was engaged in the year 2007, but he has also denied that he was employed by the contractor.

22. The aforesaid pay slips pertain to the period from Sep., 2013 to November, 2014. The respondent has placed on record the agreement Ext. RW1/H entered into with M/s ASG Transerectors on 6.8.2013 for providing manpower as per terms and conditions of the agreement. The respondent has also produced on record copy of licence Ext. RW1/C issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. Nirmal Kumar, RW1 in

his cross-examination has admitted that the licence Ext. RW1/E was issued for one year. Though he has added that it was renewed from year to year yet he has also admitted that renewed licence has not been produced on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

23. But even if this fact is ignored, even then it would be evident from the perusal of the demand notice Ext. RW1/D dated 9.7.2014 issued by Workers Union, as well as settlement agreement Ext. RW1/C produced and proved on record by the respondent itself, that the petitioner, infact, was engaged by the respondent. The demand notice Ext. RW1/D was issued on 9.7.2014. As per settlement, demand notice was issued on 17.7.2014 by the Workers Union but during course of the arguments, the learned counsel for the respondent submitted that it was demand notice dated 9.7.2014 and was mistakenly written dated 17.07.2014, which is Ext. RW1/D produced on record by the respondent. It would be evident from the perusal of demand notice Ext. RW1/D that the Workers Union besides other demands; has raised the demand that the services of the workmen working under the project were illegally placed under the contractor w.e.f. 1.6.2013 and therefore it was requested that all the workmen be treated as company's workers from the date of their initial employment in the project and the salary of the workmen be paid directly by the project management instead through contractor. It would be evident from the perusal of condition No.4 of the settlement Ext. RW1/C that it was agreed that the management would take employees on their own rolls and would issue appointment letter, identity card and pay slips after amicable separation of surplus manpower as agreed. It was also agreed that the retrenched employee would be paid Rs.2 lac as full and final settlement amount against separation which in turn clearly goes to show that the demand of the union qua illegally placing the services of the workmen under the contractor was accepted and the employees were agreed to be taken on the rolls of the company, but after separation/retrenchment of the surplus employees and therefore, in such set of such circumstances, the evidence of Man Singh PW1 that he was engaged by the respondent, has to be accepted to be correct, moreso, when the licence of M/s ASG Transerectors had expired on 29.7.2014 and renewed licence was not produced on record and even the contractor was also not examined by the respondent to prove that he was supplying the labour to the respondent even after 29.7.2014.

24. This apart, there is no reference of any contractor in settlement Ext. RW1/C which is document of respondent and Nirmal Kumar, RW1, as has been observed above, in his cross-examination has stated that the memorandum of settlement did not bear signatures of the contractor. Had the petitioner along-with other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the Workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers, who were to be retrenched.

25. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not produced any pay slips of the workmen from 1.9.2015 to 30.09.2016 on record to prove that the monthly wages to the petitioner were paid through contractor whereas as per paysheet for the month of Oct., 2016 (Ext. RW1/B-1 to Ext. RW1/B-25) the salary has been prepared and paid by the respondent and the petitioner has been shown as one of the worker in the paysheet at Sr. No. 37. and therefore taking into consideration the aforesaid facts and circumstances, especially the settlement Ext. RW1/C relied upon by the respondent whereby the surplus workmen were agreed to be retrenched after payment of Rs.2 lac as compensation and demand notice Ext. RW1/D, it can safely be concluded that the petitioner was engaged by the respondent and he was the employee of the respondent.

26. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. RW1/C and therefore he is not entitled to any relief.

27. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh along-with wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.18,296/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but he even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. RW1/C and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

28. On the other hand, learned counsel for the petitioner vehemently contended that the petitioner was not party to the settlement Ext. RW1/C, but for the sake of arguments, if it is assumed that the settlement Ext. RW1/C was arrived in between the Workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has not terminated the services of the petitioner as per the terms and conditions of settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per settlement Ext. RW1/C was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of 'last come first go'. The respondent has not produced the list of all the workmen employed in the project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

29. Hon'ble Supreme Court in **ITC Workers Welfare Association and Anr.'s** case supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on the which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of *Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd.* (1991 (1)SCC 4) succinctly summarized the position thus :—

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited

application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkata-ramiah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :—

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs, successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-

Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :—

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

30. Thus in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

31. In the case in hand, the validity of the settlement Ext. RW1/C has not been assailed; rather the petitioner in rejoinder has pleaded that the settlement dated 25.8.2015 is related to different demands of the workers and the separation of surplus manpower, who were retrenched in the year 2014 and has further claimed that since his services were terminated on 1.12.2016, the management and Workers Union settlement dated 25.8.2015 (Ext. RW1/C) is not applicable to the present case. The petitioner though has tried to assail the same on the ground that he has not signed the same, yet in view of law laid down by the Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the Workers Union under Section 18 (3) of the I. D. Act, it is binding on the petitioner as well.

32. So far as the plea of the petitioner that it is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014, is concerned, the same is also not tenable as the Workers Union, as has been observed above, vide demand charter Ext. RW1/D, had not raised any demand with regard to the workers terminated in the year 2014 nor there was any settlement with regard to the workmen retrenched in the year 2014; rather, on the demands having been raised by the Workers Union, it was agreed between the parties that the surplus manpower shall be decided at the discretion of the management by following the applicable laws. Hence this plea of the petitioner cannot be accepted. Consequently, it can safely be held that a valid settlement Ext. RW1/C had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. RW1/C.

33. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that his services were terminated as per settlement Ext. RW1/C and therefore the petitioner cannot challenge the same. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. RW1/C which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant. The surplus manpower shall be decided at the discretion of the management by following the applicable laws.

2. The willing workmen shall be given preference for separation (Non Technical Employees).
3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.
6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.
7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).
10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.
15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947”.

34. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws.

Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

35. The petitioner was engaged as a workman and therefore, he could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

36. Since, as per settlement Ext. RW1/C the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to him as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but he had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

37. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 30.11.2016 the list of the workers was notified and they including petitioner were requested to collect their compensation cheques but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were despatched to the petitioner through registered post on 1.12.2016 and Nirmal Kumar, RW1 has also stated so, however, the respondent has not led any cogent evidence on record to prove that the cheque of Rs.2 lakh Ext. RW1/L and cheque of Rs.18,296/- Ext. RW1/K were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. RW1/M with regard to payment of full and final settlement also bears date 30.11.2016, yet the registered letter Ext. RW1/J bears postal stamp dated 21.12.2016 which means that the aforesaid cheques alongwith letter Ext. RW1/M were not sent to the petitioner on 1.12.2016 as claimed by the respondent, but on 21.12.2016 and there is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques were handed over to him petitioner on 30.11.2016 as the petitioner Man Singh PW1 was not suggested that the cheques were handed over to him on 30.11.2016; rather he was suggested that the respondent had sent the cheques amounting to Rs.2 lakhs in his favour along-with salary for the months of November and December, 2016, which was denied by him. Hence it is established on record that the wages in lieu of notice period as well as compensation was not paid to the petitioner on 30.11.2016.

38. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when he was asked to go i.e. 30.11.2016, it can safely be concluded that

the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. RW1/C.

39. The petitioner, however, has not led any cogent evidence to prove that the respondent has retained workmen junior to him in service while terminating his services and has violated the principle of 'last come first go' and therefore violation of Section 25-G is not proved.

40. The petitioner has also taken plea that the Manager of the respondent company vide affidavit dated 18.07.2007, the copy whereof is Ext. PW1/D on record, has undertaken to provide job for a period for 40 years as the land of his wife Taro Devi was acquired/taken for the construction of the project, however, the petitioner has not produced any document on record to prove that the land of his wife was acquired/taken by the respondent. As per affidavit Ext. PW1/D the land of the petitioner and not of his wife was being acquired/taken by the respondent for construction of the power project, however, the petitioner has not led any cogent evidence to prove that his land or land of his wife was acquired or taken for construction of the project and therefore he is not entitled to any relief on this count.

41. The petitioner, thus, has proved on record that the respondent has terminated his services in violation of the terms and condition of settlement Ext. RW1/C and the provisions of Section 25-F of the I. D. Act.

42. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal** 2014 7 SCC 177 in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a

worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In *Man Singh (supra)* which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

43. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517**.

44. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

45. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

46. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. RW1/C arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, issue No.1 is partly decided in favour of the petitioner, issue No.2 is partly decided in favour of the respondent and issue No.3 is decided against the respondent and are answered as such.

Issue No.4

47. In view of my findings on issues No.1 and 2, the petitioner has proved cause of action to file the present petition. Hence this issue is decided against the respondent and is answered in the negative.

Issue No.5

48. The petitioner has raised the industrial dispute and the appropriate Government has made reference to this court for adjudication and therefore this court has jurisdiction to try the present case. Hence this issue is decided against the respondent and is answered in negative.

Issue No.6

49. It is fairly well settled by now that no period of limitation prescribed under the I.D. Act for making reference under Section 10 of the I.D. Act. Even otherwise, the services of the petitioner were terminated on 1.12.2016 and has raised the industrial dispute in the year 2017 and therefore the claim of the petitioner is not time barred. Hence this issue is decided against the respondent and is answered in negative.

Relief

50. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of his services in violation of the provisions of Section 25-F of the I.D. Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

51. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 63/2018

Date of Institution :06.06.2018

Date of Decision : 30.4.2024

Shri Chaman s/o Shri Raveli, r/o Village Chandod, P.O. Tarella, Tehsil Churah, District
Chamba, H.P.Petitioner .

Versus

The Manager, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah, District Chamba, H.P.
....Respondent .

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P.Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the illegal termination of the services of Sh. Chaman S/o Sh. Raveli, Village Chandod P.O. Tarela Tehsil Churah Distt. Chamba, H.P. from 1/12/2016 (as alleged by the worker) by the Manager AT Hydro Pvt. Ltd. Tarella, Pargna, Sei Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on daily wage basis as labourer on muster roll by the respondent without any appointment letter in the year 2008. After his engagement an official of the company had executed Affidavit on 14.11.2008 for providing job to him for 40 years as land of his father was taken by the respondent company for construction of project. He initially was paid Rs.4500/- as salary and he was receiving Rs.6960/- per month at the time of termination of his services by the respondent on 1.12.2016. After termination of his services, he approached the respondent time and again to re-engage him but the respondent did not pay any heed to his requests. The State of H.P. has framed the policy for regularization of daily wage workers. As per policy, the worker is required to work for 240 days in each calendar year. The respondent did not disclose actual number of days before Conciliation Officer. The respondent has given fictional breaks in his services and retrenched him without giving one month's notice or retrenchment compensation to him. The respondent retained workmen junior to him in service and thus principle of 'last come first go' has been violated by the respondent. The persons whose services were illegally terminated by the respondent with him, have been re-engaged. The respondent has also engaged new workman from time to time after terminating his services without giving him an opportunity of re-employment. He never remained absent from duty since his engagement till the date of illegal termination of his services. The respondent had given fictional breaks in his services intentionally so that he might not complete 240 days in each calendar year. Had his services not been terminated illegally and fictional breaks were not given in his service, he would have completed 8 years of continuous service as on 31.12.2016 and would have become entitled to work charge status/regularization w.e.f. 01.01.2017. He was never charge sheeted for any act of indiscipline, negligence of work or misconduct. He worked with full devotion and thus the verbal order of termination of his services is illegal, highly unjustified and also against the principle of natural justice. He is unemployed since 1.12.2016. He requested the respondent orally as well as in writing to re-engage him, but despite repeated requests, the respondent did not engage him. The action the respondent is malafide, arbitrary, unconstitutional, illegal, highly unjustified and against the principle of natural justice which amounts to unfair labour practice. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, jurisdiction, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been denied that the petitioner was engaged in the year 2008 and he was working since then. It has been averred that the petitioner, infact, was never engaged by the respondent company on 01.6.2013 or any other date; rather the petitioner was employed by the contractor M/s ASG Transerectors, during construction of the project. It has been denied that after engaging the petitioner affidavit was executed on 14.11.2008. However, it has been averred that after signing of the settlement agreement dated 25.8.2015, this affidavit has no value in the eyes of law. It has also been denied that the salary of the petitioner in the month of June 2013 was Rs.5488/- and in December, 2016 was Rs.6723/- per month. It has been averred that Trade Union Mahal Nag, Tarela VPO and Tehsil Churah, District Chamba H.P. (hereinafter in short is referred to as the Worker Union) has raised industrial dispute under Section 2(k) of the I.D. Act vide demand notice dated 17.7.2014 whereby they had raised demand on behalf of the workers employed by M/s ASG Transerectors at the project site. The contractor M/s ASG Transerectors was not responding to the demands of its workers and the workers were agitating at the project site. The Workers Union had raised demand before the Lbaour-cum-Conciliation Officer, Chamba. Under these circumstances, they attended the meeting called by the Conciliation Officer. After protracted negotiations between the parties in the presence of the Conciliation Officer, the management informed the Workers Union and Conciliation Officer that the existing 76 workers deployed by various contractors were more than the requirement at 5 MW Small Hydro project. After commissioning of the project, the contractors would be disengaged and they would not require the manpower. The Workers Union alongwith their workers had appealed to the management to take employees of the contractors on the rolls of company. They have also raised certain demands including payment of higher wages. During conciliation proceedings, it was made it clear that they would not employ the contractor employees because post commissioning of the project they would not require unskilled manpower and the project would become economically unviable if they would employs more than minimum required manpower. Subject to this condition, it was agreed to consider other demands raised by the Workers Union, though the respondent was not illegally bound to consider their demands as they were workers of the contractors. After mutual and amicable discussions in the conciliation proceedings, the authorized representative of the Workers Trade Union and the respondent company signed memorandum of settlement on 25.8.2015 in the presence of Labour-cum-Conciliation Officer Chamba under Section 12(3) of the I.D.Act. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each employee of the contractor and it was also agreed that the manpower who were engaged by the contractor would be paid compensation at the discretion of the management. On 30.11.2016, as per agreement, it notified, a list of the workers of the contractor M/s ASG Contractor as per record available with it and requested all persons to collect their compensation including the petitioner, but he refused to receive the same. The respondent had agreed to pay compensation on humanitarian ground and to bring peace in the project site. On 1.12.2016, cheque amounting to Rs.2,00,000/- as compensation and one another cheque of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner by post. Hence the allegations of the petitioner that he was not paid salary for the month of November, 2016 are false and baseless. The petitioner was offered compensation as per memorandum of settlement. It was under no obligation to comply with the provisions of Section 25-F of the I.D.Act as the petitioner was not employed by the company. It has also been denied that the respondent had engaged new workmen after 1.12.2016. Since the petitioner was not the employee of the company, there was no question to pay retrenchment compensation or to comply with the provisions of Sections 25-F and 25-G of the I.D.Act. The petitioner was paid salary for two three months equivalent to retrenchment compensation as an abundant caution for compliance of provisions of Section 25 of I. D. Act as the contractor was not responding to the notices issued by the Conciliation Officer. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 09.12.2021:—

1. Whether termination of services of the petitioner w.e.f. 01.12.2016 by the respondent is/was illegal and unjustified, as alleged? ..*OPP*.
2. If issue no.1 is proved in affirmative to what amount of back wages, seniority, past service benefits and compensation the petitioner is entitled to from the employer ..*OPR*.
3. Whether the claim petitioner is not maintainable? ..*OPR*.

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides himself, has examined one Dhani Ram as PW2 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Compensation

Issue No.3 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 and 2

11. Both the issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was employed by contractor M/s ASG Transerectors.

14. The petitioner, in order to prove his claim, has examined one Dhani Ram as PW2, who has filed affidavit Ext. PW2/A in his examination-in-chief wherein he categorically stated that he and the petitioner were engaged by the respondent without any appointment letter in the year 2008. The services of the petitioner were orally terminated on 1.12.2016 and the respondent has also not paid salary of November, 2016 to the petitioner. In his cross-examination, he has stated that he has not produced any identity card or the appointment letter to prove that he had been working with the respondent since the year 2008. He has also not placed any document on record with regard to his salary. He cannot produce any document to prove that he was employee of the respondent. He has further stated that he had received settlement amount of Rs.2 lakh and salary for the month of November and December, 2016. He has denied that they all were working with the contractor. Real brother of the petitioner is still working with the respondent.

15. The petitioner Chaman appeared as PW1 and filed affidavit Ext. PW/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has also tendered affidavit Ext. PW/B and copies of pay slips Ext. PW1/C1 to Ext. PW1/C13. In his cross-examination, he has stated that land of his grandfather was purchased by the respondent. His land was not purchased by the project. His elder brother Nand Lal is working with the respondent. He can not produce his identity card issued by the respondent. He has denied that he was working under the contractor M/s ASG Transerectors Workers, Sultanpur, District Chamba, H.P. He does not know that pay slips Ext. PW1/C1 to Ext. PW1/C13 were issued by the aforesaid contractor and added that the same were issued by company. He has denied that the Workers Union had raised demands vide demand charter to the respondent. He does not know that Labour Officer had initiated the conciliation proceedings in the aforesaid matter in which the representative of the workers, representative of contractor and representative of respondent participated. He has denied that a settlement was arrived at between the parties and it was settled that the company shall have the power to remove surplus manpower of the contractor and the respondent shall pay Rs.2 lakh to each workman. He has denied that on 30.11.2016 the respondent has exhibited surplus manpower list of the contractor. He has also denied that on 31.11.2016 a cheque of Rs.2 lakh and another cheque of Rs.15182/- of salary for November and December, 2016 were sent to him through registered letter. He has denied that he had refused to received the register letter. He has denied that he never remained the worker of the respondent and had filed a false case.

16. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered attendance chart/pay sheets Ext. RW1/B1 to Ext. RW1/B28, Memorandum of settlement Ext. RW1/C, labourer licence of contractor Ext. RW1/D, list of workers Ext. RW1/E, list of workers Ext. RW1/F, envelop in which cheques were sent Ext. RW1/G , original cheques are Ext. RW1/H and Ext. RW1/J and letter dated 30.11.2016 Ext. RW1/K in evidence. In his cross-examination, he has denied that the company had engaged around 150 workers and added that the workers were engaged through contractor. He has admitted that they have not placed details of the contractor working with them in the year 2007. He has denied that the petitioner had worked from 2008-09 to December, 2016 in continuity. He has denied that they have not paid the salary for November and December, 2016 to the petitioner and added that they had sent the same through cheques but the petitioner had refused to accept the same. He has admitted that the respondent had not given one month's advance notice to the petitioner and added that they have paid wages for the notice period through cheque. He did not know that as per document Ext. PW2/B, the petitioner was supposed to work for 40 years with the respondent company. He has denied that settlement dated 25.8.2015 had taken place without consent of the petitioner and he was not present at that time. The company had engaged two contractors and name of one contractor was Rakesh Pathania. He did not remember the name of another contractor. He has admitted that Rakesh Pathania has not been cited as witness in this case. He has denied that after termination of the services of the petitioner, they have engaged Tek Chand,

Sukh Lal and Suni Ram. He has further stated that the company presently was having 42 employees. He did not know whether any memorandum of settlement was entered into between the contractor and the petitioner. He did not know as to whether this memorandum was produced during the conciliation proceedings or not. He has denied that it was agreed in the memorandum of settlement that only those workers, who were willing to leave the work at their free will, would be terminated. He did not know whether the Government had issued notification on the basis of conciliation proceedings or not. He has admitted that memorandum of settlement has not been signed by the contractor. He has admitted the licence Ext. RW1/D was issued for one year and added that it was renewed from year to year. He, however, has admitted that renewed licence has not been placed on record. He has denied that no cheque was sent to the petitioner. The workers shown in the Ext. RW1/E are still working with the company. He has admitted that he has not brought original cheque book of cheques Ext. RW1/H and Ext. RW1/J. He did not remember about the endorsement in red circle on Ext. RW1/G and added that it was made by the official of the postal department. He has admitted that they have not summoned any witness from postal department and added that they could not find the person who had made this endorsement.

17. This is entire evidence led by both the parties on record.

18. Learned Counsel for the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. RW1/C. The settlement Ext. RW1/C produced by the respondent on record proves that the petitioner was engaged by the respondent and he was the employee of the respondent.

19. Learned Counsel for the respondent has vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove the same; rather the pay slips Ext. PW1/C1 to Ext. PW1/C13 produced on record by the petitioner proves that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

20. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in abovesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, in the case in hand, the evidence led by the respondent itself proves that the petitioner was employee of the respondent.

21. The petitioner (PW1) has stated that he was engaged by the respondent in the year 2008 and his witness Bhagwan Singh PW2 has also stated so. The petitioner has produced the pay slips Ext. PW1/C1 to Ext. PW1/C13 only which have been issued by M/s ASG Transerectors Sultanpur, however, the petitioner has not produced any documentary evidence on record to prove that he was engaged by the respondent in the year 2008. The petitioner thus has not produced cogent evidence on record to prove that he was engaged in the year 2008, but he has also denied that he was employed by the contractor.

22. The aforesaid pay slips pertain to the period from August, 2013 to January 2015, however, the petitioner has stated that the same were issued by the respondent company and he has denied that he was employed by the contractor. The respondent has not produced any agreement on record entered into with M/s ASG Transerectors to prove the fact that manpower to the respondent was supplied by the said Firm. The respondent has produced on record copy of licence Ext. RW1/D issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. The

licence Ext. RW1/D also in no manner proves that M/s ASG Transerectors had supplied manpower to the respondent. Even otherwise, Nirmal Kumar, RW1 in his cross-examination has admitted that the licence Ext. RW1/E was issued for one year. Though he has added that it was renewed from year to year, yet he has also admitted that renewed licence has not been produced on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

23. Not only this, the respondent has not examined the contractor M/s ASG Transerectors to prove that he was supplying or ever supplied the labour to the respondent.

24. This apart, there is no reference of any contractor in settlement Ext. RW1/C which is document of respondent and Nirmal Kumar, RW1, as has been observed above, in his cross-examination has stated that the memorandum of settlement did not bear signatures of the contractor. Had the petitioner alongwith other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the Workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers engaged by the contractor.

25. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not produced cogent evidence on record to prove that the monthly wages to the petitioner were paid through contractor from 1.9.2015 to 30.09.2016 or even prior thereto. In pay sheets/attendance chart Ext. RW1/B1 to Ext. RW1/B24 for the months of June, 2013, July 2014 and October, 2015, the name of M/S ASG Transerectors has been written, however, the respondent has neither examined the contractor nor the record of contractor was got summoned nor any documents has been produced to prove that the payment, in fact, was made to the workers through M/S ASG Transerectors. This fact could have easily been proved by producing the bank record and therefore, these Paysheets cannot be accepted in proof of the fact that petitioner was engaged by the contractor. Therefore taking into consideration the aforesaid facts and circumstances, especially the settlement Ext. RW1/C relied upon by the respondent whereby the surplus workmen were agreed to be retrenched after payment of Rs.2 lakh as compensation and the fact that the respondent has not produced any agreement on record entered into with M/s ASG Transerectors to prove the fact that manpower to the respondent was supplied by the contractor, it can safely be concluded that the petitioner was engaged by the respondent and he was the employee of the respondent.

26. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. RW1/C and therefore he is not entitled to any relief.

27. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh along-with wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.15182/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but he even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. RW1/B and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

28. On the other hand, learned counsel for the petitioner vehemently contended that the petitioner was not party to the settlement Ext. RW1/C, but for the sake of arguments, if it is

assumed that the settlement Ext. RW1/C was arrived in between the Workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has not terminated the services of the petitioner as per terms and conditions of the settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per settlement Ext. RW1/C was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of 'last come first go'. The respondent has not produced the list of all the workmen employed in the project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

29. Hon'ble Supreme Court in ITC Workers Welfare Association and Anr.'s cases supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on the which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd. (1991 (1)SCC 4) succinctly summarized the position thus :-

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkatarajah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :-

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs, successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :-

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

30. Thus in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

31. In the case in hand, the validity of the settlement Ext. RW1/C has not been assailed; rather the petitioner in rejoinder has pleaded that the settlement dated 25.8.2015 is related to different demands of the workers and the separation of surplus manpower, who were retrenched in the year 2014 and has further claimed that since his services were terminated on 1.12.2016, the management and workers Union settlement dated 25.8.2015 (Ext. RW1/C) is not applicable to the present case. The petitioner though has tried to assail the same on the ground that he has not signed the same, yet in view of law laid down by the Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the union under Section 18 (3) of the I. D.Act, it is binding upon the petitioner as well.

32. So far as the plea of the petitioner that it is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014, is concerned, the same is also not tenable as there is no such reference in settlement Ext. RW1/C and the petitioner has not led any cogent evidence on record to prove that the settlement Ext. RW1/C is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014. Hence this plea of the petitioner cannot be accepted. Consequently, it can safely be held that a valid settlement Ext. RW1/C had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. RW1/C.

33. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that his services were terminated as per settlement Ext. RW1/C and therefore the petitioner cannot challenge the same. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. RW1/C which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant. The surplus manpower shall be decided at the discretion of the management by following the applicable laws.
2. The willing workmen shall be given preference for separation (Non Technical Employees).
3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.
6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.

7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).
10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.
15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947”.

34. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws. Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

35. The petitioner was engaged as a workman and therefore, he could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

36. Since, as per settlement Ext. RW1/C the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one

month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to him as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but he had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

37. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 30.11.2016 the list of the workers was notified and they including petitioner were requested to collect their compensation cheques but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were sent to the petitioner through registered post on 1.12.2016 and Nirmal Kumar, RW1 has also stated so, however, the respondent has not led any cogent evidence on record to prove that the cheque of Rs.2 lakh Ext. RW1/H and cheque of Rs.15182/- Ext.RW1/J were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. RW1/K with regard to payment of full and final settlement also bears date 30.11.2016, yet the registered letter Ext. RW1/G bears postal stamp dated 21.12.2016 which means that the aforesaid cheques alongwith letter Ext. RW1/G were not sent to the petitioner on 1.12.2016 as claimed by the respondent, but on 21.12.2016 and there is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques were handed over to him on 30.11.2016 as the petitioner Chaman was not suggested that the cheques were handed over to him on 30.11.2016; rather he was suggested that the respondent had sent the cheques to him through registered post on 30.11.2016 which was denied by him. Hence it is established on record that the wages in lieu of notice period as well as compensation were not paid to the petitioner on 30.11.2016.

38. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when he was asked to go i.e. 30.11.2016, it can safely be concluded that the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. RW1/C.

39. The petitioner, however, has not led any cogent evidence to prove that the respondent while terminating his services has violated the principle of 'last come first go' and therefore violation of Section 25-G is not proved.

40. The petitioner has also taken plea that the Manager of the respondent company vide affidavit dated 7.12.2017, the copy whereof Ext. PW1/B on record, has undertaken to provide job for a period for 40 years as the land of his father was taken for the construction of the project, however, the petitioner has not produced any document except affidavit Ext. PW1/B on record to prove that the land of his father was acquired / taken by the respondent. As per affidavit Ext. PW1/B, the land of the petitioner and not of his father was being taken/acquired for construction of the power project and one member of his family was to be granted employment for 40 years. The petitioner, in his cross-examination, has stated that his land was not purchased for project and he has further admitted that his two brother are still working with the respondent and therefore he is not entitled to any relief on this count.

41. The petitioner, thus, has proved on record that the respondent has terminated his services in violation terms and conditions of settlement of settlement Ext. RW1/C and the provisions of Section 25-F of the I. D. Act.

42. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal** 2014 7 SCC 177 in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that

ends of justice would be met by granting compensation in lieu of reinstatement. In *Man Singh (supra)* which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

43. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517**.

44. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

45. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

46. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. RW1/C arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, both these issues are partly decided in favour of the petitioner and are answered as such.

Issue No. 3

47. In view of my findings returned on the issues No.1 and 2 above, the petition is maintainable. Hence this issue is decided against the respondent and answered in negative.

Relief

48. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of his services in violation of the provisions of Section 25-F of the I.D.Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

49. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

**In the Court of Sh. Naresh Kumar, Presiding Judge, Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala (H.P.)**

Ref. No. : 67/2018

Date of Institution :11.7.2018

Date of Decision : 30.4.2024

Shri Bhag Chand s/o Shri Bhikha Ram r/o Village & P.O. Bonderi, Tehsil Churah, District
Chamba, H.P.*Petitioner* .

Versus

The Manager, AT Hydro Pvt. Ltd. Tarella Pargna Sei, Tehsil Churah, District Chamba, H.P.
....*Respondent*.

Reference under Section 10 (1) of the Industrial Disputes Act, 1947

For the petitioner : Sh. O.P.Bhardwaj, Ld. Adv.

For the respondent(s) : Sh. Vaneet K. Gupta, Ld. Adv.

AWARD

The appropriate Government has made the following reference Under Section 10(1) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the I.D.Act') to this court for adjudication:—

“Whether the illegal termination of the services of Sh. Bhag Chand S/o Sh. Bhikha, Village & P.O. Bonderi, Tehsil Churah Distt. Chamba, H.P. from 1/12/2016 (as alleged by the workman) by the Manager AT Hydro Pvt. Ltd. Tarella, Pargna, Sei Tehsil Churah, Distt. Chamba, H.P. without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not what amount of back wages, seniority, past service benefits and compensation the above workers is entitled to from the above employer?”

2. Notices to the parties were issued. The parties put in appearance before the court and the petitioner has filed statement of claim.

3. Briefly stated, the case of the petitioner is that he was initially engaged on daily wage basis as labourer on muster roll by the respondent without any appointment letter in the year 2008.

After his engagement an official of the company had executed Affidavit on 09.04.2009 for providing job to him for 40 years as land of his wife Puni Devi was taken by the respondent company for construction of project. He initially was paid Rs.4500/- as salary and he was receiving Rs.6960/- per month at the time of termination of his services by the respondent on 1.12.2016. After termination of his services, he approached the respondent time and again to re-engage him but the respondent did not pay any heed to his requests. The State of H.P. has framed the policy for regularization of daily wage workers. As per policy, the worker is required to work for 240 days in each calendar year. The respondent did not disclose actual number of days before Conciliation Officer. The respondent has given fictional breaks in his services and retrenched him without giving one month's notice or retrenchment compensation to him. The respondent retained workmen junior to him in service and thus principle of 'last come first go' has been violated by the respondent. The persons whose services were illegally terminated by the respondent with him, have been re-engaged. The respondent has also engaged new workman from time to time after terminating his services without giving him an opportunity of re-employment. He never remained absent from duty since his engagement till the date of illegal termination of his services. The respondent had given fictional breaks in his services intentionally so that he might not complete 240 days in each calendar year. Had his services not been terminated illegally and fictional breaks were not given in his service, he would have completed 8 years of continuous service as on 31.12.2016 and would have become entitled to work charge status/regularization w.e.f. 1.1.2017. He was never charged sheeted for any act of indiscipline, negligence of work or misconduct. He worked with full devotion and thus the verbal order of termination of his services is illegal, highly unjustified and also against the principle of natural justice. He is unemployed since 1.12.2016. He requested the respondent orally as well as in writing to re-engage him, but despite repeated requests, the respondent did not engage him. The action the respondent is malafide, arbitrary, unconstitutional, illegal, highly unjustified and against the principle of natural justice which amounts to unfair labour practice. Hence the petition.

4. The petition has been resisted by the respondent by filing reply taking preliminary objections qua maintainability, cause of action, estoppel, jurisdiction, limitation and that the alleged dispute between the parties stand settled vide settlement dated 25.8.2015 and that there is no relationship of employer and employee between the parties. On merits, it has been denied that the petitioner was engaged in the year 2007 and he was working since then. It has been averred that the petitioner, infact, was never engaged by the respondent company; rather the petitioner was employed by the contractor M/s ASG Transerectors, during construction of the project. It has been denied that after engaging the petitioner affidavit was executed on 9.04.2009. However, it has been averred that after signing of the settlement agreement dated 25.8.2015, this affidavit has no value in the eyes of law. It has also been denied that the salary of the petitioner in the month of June 2013 was Rs.5960/- and in December, 2016 was Rs.7301/- per month. It has been averred that Trade Union Mahal Nag, Tarela VPO and Tehsil Churah, District Chamba H.P.(hereinafter in short is referred to as the Workers Union) has raised industrial dispute under Section 2(k) of the I.D. Act vide demand notice dated 17.7.2014 whereby they had raised demand on behalf of the workers employed by M/s ASG Transerectors at the project site. The contractor M/s ASG Transerectors was not responding to the demands of its workers and the workers were agitating at the project site. The Workers Union had raised demand before the Labour-cum-Conciliation Officer, Chamba. Under these circumstances, they attended the meeting called by the Conciliation Officer. After protracted negotiations between the parties in the presence of the Conciliation Officer, the management informed the Workers Union and Conciliation Officer that the existing 76 workers deployed by various contractors were more than the requirement at 5 MW Small Hydro project. After commissioning of the project, the contractors would be disengaged and they would not require the manpower. The Workers Union alongwith their workers had appealed to the management to take employees of the contractors on the rolls of company. They have also raised certain demands including payment of higher wages. During conciliation proceedings, it was made it clear that they

would not employ the contractor employees because post commissioning of the project they would not require unskilled manpower and the project would become economically unviable if they would employ more than minimum required manpower. Subject to this condition, it was agreed to consider other demands raised by the Workers Union, though the respondent was not illegally bound to consider their demands as they were workers of the contractors. After mutual and amicable discussions in the conciliation proceedings, the authorized representative of the Workers Union and the respondent company signed memorandum of settlement on 25.8.2015 in the presence of Labour-cum-Conciliation Officer Chamba under Section 12(3) of the I.D.Act. As per settlement a sum of Rs.2,00,000/- was agreed to be paid as full and final compensation to each employee of the contractor and it was also agreed that the manpower who were engaged by the contractor would be paid compensation at the discretion of the management. On 30.11.2016, as per agreement, it notified, a list of the workers of the contractor M/s ASG Contractor as per record available with it and requested all persons to collect their compensation including the petitioner, but he refused to receive the same. The respondent had agreed to pay compensation on humanitarian ground and to bring peace in the project site. On 1.12.2016, cheque amounting to Rs.2,00,000/- as compensation and one another cheque of salary of November and December, 2016, bonus for the year 2015-16 and balance leave encashment amount were sent to the petitioner by post. Hence the allegations of the petitioner that he was not paid salary for the month of November, 2016 are false and baseless. The petitioner was offered compensation as per memorandum of settlement. It was under no obligation to comply with the provisions of Section 25-F of the I.D.Act as the petitioner was not employed by the company. It has also been denied that the respondent had engaged new workmen after 1.12.2016. Since the petitioner was not the employee of the company, there was no question to pay retrenchment compensation or to comply with the provisions of Sections 25-F and 25-G of the I.D.Act. The petitioner was paid salary for two three months equivalent to retrenchment compensation as an abundant caution for compliance of provisions of Section 25 of I. D. Act as the contractor was not responding to the notices issued by the Conciliation Officer. After denying other allegations, it has been prayed that the petition be dismissed.

5. In rejoinder filed by the petitioner, the averments made in the petition have been re-affirmed after refuting those of the replies contrary to the averments made in the claim petition.

6. On the pleadings of the parties, following issues were framed on 7.1.2020:—

1. Whether the petitioner was illegally and unjustifiably terminated by the respondent on 01-12-2016, as alleged. If so, its effect? ..*OPP.*
2. Whether full and final settlement had taken place in between the parties on 25-08-2015, as alleged. If so, its effect? .. *OPR.*
3. Whether there exists no relationship of employer and employee in between the petitioner and respondent, as alleged? ..*OPR.*
4. Whether the petitioner has no cause of action to file the present case, as alleged? ..*OPR.*
5. Whether this Tribunal has no jurisdiction to try the present case, as alleged? ..*OPR.*
6. Whether the claim petition is time barred, as alleged? .. *OPR.*

Relief.

7. The petitioner was called upon to lead evidence. The petitioner besides himself, has examined one Bhagwan Singh as PW2 and closed the evidence.

8. On the other hand the respondent has examined General Manager (HR) Shri Nirmal Kumar as RW1 and closed the evidence. The evidence of this witness, inadvertently, has been recorded twice.

9. I have heard the Learned Counsel for the parties and gone through the case file carefully.

10. For the reasons to be recorded hereinafter, my findings on the above issues are as under:—

Issue No.1 :Partly Yes

Issue No.2 :Partly yes

Issue No.3 :No

Issue No.4 :No

Issue No.5 :No

Issue No.6 :No

Relief. :Petition is partly allowed per operative portion of the Award.

REASONS FOR FINDINGS

Issues No. 1 to 3

11. All these issues being inter linked and inter-connected are taken up together for disposal in order to avoid prolixity of evidence.

12. The respondent has not denied that the petitioner worked as labourer with the respondent company, however, the respondent has resisted the claim of the petitioner on two counts, firstly that the petitioner is not its employee; rather the petitioner was employed by its contractor M/s ASG Transerectors, who had supplied manpower to the company during construction of project and secondly that the claim of the petitioner is not maintainable in view of the settlement arrived at between the parties under Section 12 (3) of the I. D. Act. before the Conciliation Officer on 25.8.2015.

13. Now coming to the first plea of the respondent that there is no relationship of employer and employee between the parties. The respondent has claimed that the petitioner was employed by contractor M/s ASG Transerectors.

14. The petitioner, in order to prove his claim, has examined one Bhagwan Singh, Pradhan, Gram Panchayat Gulla, Tehsil Churah, District Chamba, H.P. as PW2 who has filed affidavit Ext. PW2/A in his examination-in-chief wherein he categorically has stated that the petitioner was engaged as daily wage worker on muster roll without any appointment letter in the year 2009 and his services were orally terminated on 1.12.2016. In his cross-examination, he has admitted that the construction of the project was completed in the year 2009 and generation of electricity was started. He did not know that the company had employed 400 to 500 workers through the contractor in those days. He did not know whether muster roll was issued to the petitioner and added that he had seen him working at site. He however, feigned ignorance that the petitioner was engaged by the contractor M/s ASG Transerectors.

15. The petitioner Bhag Chand appeared as PW1 and filed affidavit Ext. PW1/A in his examination-in-chief wherein he has affirmed all the averments made in the petition on oath. He has also tendered copies of salary slips Ext. PW1/B1 to Ext. PW1/B19, demand notice Mark-A, letter of Labour Officer Ext. PW1/C, reply to demand notice Mark-B, rejoinder to the reply of demand notice Mark-c and copy of affidavit Ext. PW1/D in evidence. In his cross-examination, he has admitted that it has been mentioned in the affidavit Ext. PW1/D that Rules framed by the Himachal Pradesh Government relating to employment with Company and the Company's Rules and Conditions of employment shall be applicable and added that it has also been mentioned in the affidavit that he would be given employment for 40 years. He did not know that the employment was agreed to be provided as per memorandum of understanding with the Government till the construction of the project. He has denied that the project was constructed in the year 2009 and generation of electricity was started in the year 2009. He has denied that he was employed by the contractor. He has denied that he worked with the contractor M/s ASG Transerectors and he was paid salary by the said contractor. He has also denied that there was Workers Union of the workers namely Mahal Nag AT Hydro Project Workers (Regd.) Union, Tarela. He did not know that Workers Union had given demand charter to the Labour Officer and Labour Officer had called the parties for conciliation. He did not know that the settlement was arrived at between the Workers Union and respondent before Labour Officer and as per settlement, Rs.2,00,000/- were agreed to be paid to the retrenched workers. He did not know that the company was vested with the discretion to retrench the workers as per the settlement. He did not know that the respondent had displayed the list of surplus workers on 30.11.2016. He has denied that the respondent had sent cheque of Rs.2,00,000/- along with salary for the months of November and December, 2016 to him. He has not produced any proof of the title of land purchased by respondent and added that said land was in the name of his wife. He has denied that the pay slips Ext. PW1/B1 to Ext. PW1/B19 were issued by the contractor ASG Transerectors and added that the respondent company used to issue these receipts.

16. On the other hand the respondent has examined its General Manager, Nirmal Kumar as RW1. He has filed affidavit Ext. RW1/A in his examination-in-chief wherein he has affirmed all the averments made in the reply on oath. He has also tendered attendance chart/pay sheets Ext. RW1/B1 to Ext. RW1/B25, memorandum of settlement Ext. RW1/C, demand charter Ext. RW1/D, labourer licence of contractor Ext. RW1/E, list of workers Ext. RW1/F, implementation agreement Ext. RW1/G, agreement with contractor Ext. RW1/H, envelop in which cheques were sent Ext. RW1/J, original cheques Ext. RW1/K and Ext. RW1/L and letter dated 30.11.2016 Ext. RW1/M in evidence. In his cross-examination, he has denied that the company had engaged around 150 workers and added that the workers were engaged through contractor. He has admitted that they have not placed details of the contractor working with them in the year 2007. He has denied that the petitioner had worked from 2008-09 to December, 2016 in continuity. He has denied that they have not paid the salary for November and December, 2016 to the petitioner and added that they had sent the same through cheques but the petitioner had refused to accept the same. He has admitted that the respondent had not given one month's advance notice to the petitioner and added that they have paid wages for the notice period through cheque. He did not know that as per document Ext. PW2/B, the petitioner was supposed to work for 40 years with the respondent company. He has denied that settlement dated 25.8.2015 had taken place without consent of the petitioner and he was not present at that time. The company had engaged two contractors and name of one contractor was Rakesh Pathania. He did not remember the name of another contractor. He has admitted that Rakesh Pathania has not been cited as witness in this case. He has denied that after termination of the services of the petitioner, they have engaged Tek Chand, Sukh Lal and Suni Ram. He has further stated that the company presently is having 42 employees. He did not know as to whether any memorandum of settlement was entered into between the contractor and the petitioner. He did not know as to whether this memorandum was produced during the conciliation proceedings or not. He has denied that it was agreed in the memorandum of settlement that only those workers, who

were willing to leave the work at their free will, would be terminated. He did not know whether the Government had issued notification on the basis of conciliation proceedings or not. He has admitted that memorandum of settlement has not been signed by the contractor. He has admitted the licence Ext. RW1/E was issued for one year and added that it was renewed from year to year. He, however, has admitted that renewed licence has not been placed on record. He has denied that no cheque was sent to the petitioner. The workers shown in the Ext. RW1/F are still working with the company. He has admitted that he has not brought original cheque book of cheques Ext. RW1/K and Ext. RW1/L. He did not remember about the endorsement in red circle on Ext. RW1/J and added that it was made by the official of the postal department. He has admitted that they have not summoned any witness from postal department and added that they could not find the person who had made this endorsement.

17. This is entire evidence led by both the parties on record.

18. Learned Counsel for the petitioner has submitted that the petitioner was engaged by the respondent and he was the employee of the respondent. Had the petitioner not been the employee of the respondent, the respondent would have mentioned the same in the alleged settlement Ext. RW1/C. The demand notice Ext. RW1/D and settlement Ext. RW1/C produced by the respondent on record proves that the petitioner was engaged by the respondent and he was the employee of the respondent.

19. Learned Counsel for the respondent has vehemently contended that it was for the petitioner to prove that he was employee of the respondent but the petitioner has not led any cogent evidence on record to prove the same; rather the pay slips Ext. PW1/B1 to Ext. PW1/B19 produced on record by the petitioner proves that he was employee of M/s ASG Transerectors, Sultanpur Chamba and thus the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **Rakesh Sharma vs. Indian Oil Corporation and Another, 2019 LLR 1109** in which Hon'ble High Court has held that initial burden to prove relationship of employer and employee is upon the employee.

20. There is no substance in the contention raised by the learned counsel for the respondent. In view of the law laid down by the Hon'ble High Court in abovesaid case, the initial burden to prove relationship of employer and employee is upon the employee, however, the respondent itself has produced documents on record which prove that the petitioner was employee of the respondent.

21. The petitioner (PW1) has stated that he was engaged by the respondent in the year 2008 whereas his witness Bhagwan Singh PW2 has stated that the petitioner was engaged by the respondent in the year 2009. The petitioner has produced the pay slips Ext. PW1/B1 to Ext. PW1/B19 only which have been issued by M/s ASG Transerectors Sultanpur, however, the petitioner has stated that the same were issued by the respondent company and he has denied that he was employed by the contractor. The petitioner has not produced any documentary evidence on record to prove that he was engaged by the respondent in the year 2008. The petitioner thus has not produced cogent evidence on record to prove that he was engaged in the year 2008, but he has also denied that he was employed by the contractor.

22. The aforesaid pay slips pertain to the period from June, 2013 to January, 2015. The respondent has placed on record the agreement Ext. RW1/H entered into with M/s ASG Transerectors on 6.8.2013 for providing manpower as per terms and conditions of the agreement. The respondent has also produced on record copy of licence Ext. RW1/E issued to M/s ASG Transerectors for one year on 30.7.2013 which was valid upto 29.7.2014. Nirmal Kumar, RW1 in his cross-examination has admitted that the licence Ext. RW1/E was issued for one year. Though he has added that it was renewed from year to year yet he has also admitted that renewed licence has

not been produced on record which in turn prove that M/s ASG Transerectors was having licence to supply the labour till 29.7.2014 only.

23. But even if this fact is ignored, even then it would be evident from the perusal of the demand notice Ext. RW1/D dated 9.7.2014 issued by Workers Union, as well as settlement agreement Ext. RW1/C produced and proved on record by the respondent itself that the petitioner, infact, was engaged by the respondent. The demand notice Ext. RW1/D was issued on 9.7.2014. As per settlement, demand notice was issued on 17.7.2014 by the Workers Union but during course of the arguments, the learned counsel for the respondent submitted that it was demand notice dated 9.7.2014 and was mistakenly written dated 17.7.2014, which is Ext. RW1/D produced on record by the respondent. It would be evident from the perusal of demand notice Ext. RW1/D that the Workers Union besides other demands; has raised the demand that the services of the workmen working under the project were illegally placed under the contractor w.e.f. 1.6.2013 and therefore it was requested that all the workmen be treated as company's workers from the date of their initial employment in the project and the salary of the workmen be paid directly by the project management instead through contractor. It would be evident from the perusal of condition No.4 of the settlement Ext. RW1/C that it was agreed that the management would take employees on their own rolls and would issue appointment letter, identity card and pay slips after amicable separation of surplus manpower as agreed. It was also agreed that the retrenched employee would be paid Rs.2 lac as full and final settlement amount against separation which in turn clearly goes to show that the demand of the union qua illegally placing the services of the workmen under the contractor was accepted and the employees were agreed to be taken on the rolls of the company, but after separation/retrenchment of the surplus employees and therefore, in such set of such circumstances, the evidence of Bhag Chand PW1 that he was engaged by the respondent, has to be accepted to be correct, moreso, when the licence of M/s ASG Transerectors had expired on 29.7.2014 and renewed licence was not produced on record and even the contractor was also not examined by the respondent to prove that he was supplying the labour to the Respondent even after 29.7.2014.

24. This apart, there is no reference of any contractor in settlement Ext. RW1/C which is document of respondent and Nirmal Kumar, RW1, as has been observed above, in his cross-examination has stated that the memorandum of settlement did not bear signatures of the contractor. Had the petitioner along-with other workers been engaged by the contractor, the respondent would not have accepted the demand raised by the Workers Union nor the respondent would have agreed to pay retrenchment compensation to the workers, who were to be retrenched.

25. Furthermore, the settlement was arrived at on 25.8.2015 and the services of the petitioner admittedly were terminated by the respondent on 30.11.2016 and the respondent has not produced any pay slips of the workmen from 1.9.2015 to 30.09.2016 on record to prove that the monthly wages to the petitioner were paid through contractor whereas as per paysheet for the month of Oct., 2016, (Ext. RW1/B-1 to Ext. RW1/B-25), the salary has been prepared and paid by the respondent and the petitioner has been shown as one of the worker in paysheet at Sr. No. 34 and therefore taking into consideration the aforesaid facts and circumstances, especially the settlement Ext. RW1/C relied upon by the respondent whereby the surplus workmen were agreed to be retrenched after payment of Rs.2 lac as compensation and demand notice Ext. RW1/D, it can safely be concluded that the petitioner was engaged by the respondent and he was the employee of the respondent.

26. Now coming to another plea taken by the respondent that the services of the petitioner had been retrenched as per settlement Ext. RW1/C and therefore he is not entitled to any relief.

27. Learned counsel for the respondent vehemently contended that the settlement between the Workers Union and the respondent was arrived at during the course of conciliation proceedings

before the Conciliation Officer and as such it is binding on all the parties including the petitioner and in view of settlement, the petitioner was offered Rs.2 lakh along-with wages for the months of November and December, 2016, in lieu of notice period and bonus as well as leave encashment amounting to Rs.15,260/- through two cheques but the petitioner did not receive the same, therefore, the same were sent to the petitioner through post, but he even refused to receive the registered letter containing cheques. The respondent thus has terminated the services of the petitioner in accordance with settlement Ext. RW1/C and the provisions of the I. D. Act and therefore, the petitioner is not entitled to any relief. The learned counsel for the respondent in support of his contention has relied upon **ITC Ltd. Workers Welfare Association and Anr. vs. The Management of ITC Ltd. and Ors., AIR 2002 SC 937.**

28. On the other hand, learned counsel for the petitioner vehemently contended that the petitioner was not party to the settlement Ext. RW1/C, but for the sake of arguments, if it is assumed that the settlement Ext. RW1/C was arrived in between the Workers Union and the respondent and the settlement is binding upon the petitioner as well, even then the respondent has not terminated the services of the petitioner as per the terms and conditions of the settlement and the provisions of Section 25-F of the I. D. Act. The respondent as per the settlement Ext. RW1/C was required to retrench the service of the petitioner by following the applicable laws. The respondent has neither issued one month's notice to the petitioner nor paid wages in lieu of notice period and compensation as per provisions of Section 25-F of the I.D. Act nor has followed the principle of 'last come first go'. The respondent has not produced the list of all the workmen employed in the project and copy of order of the retrenchment of the employees to prove as to how and in what manner the surplus employees were identified and therefore the services of the petitioner were not retrenched as per provisions of the I. D. Act and as such the petitioner is entitled to relief as claimed by him.

29. Hon'ble Supreme Court in **ITC Workers Welfare Association and Anr.'s** case supra in para Nos. 14 to 18 has held as under:

[14] In answering the reference the industrial adjudicator has to keep in the forefront of his mind the settlement reached under S. 12(3) of the Industrial Disputes Act. Once it is found that the terms of the settlement operate in respect of the dispute raised before it, it is not open to the Industrial Tribunal to ignore the settlement or even belittle its effect by applying its mind independent of the settlement unless the settlement is found to be contrary to the mandatory provisions of the Act or unless it is found that there is non-conformance to the norms by which the settlement could be subjected to limited judicial scrutiny. This is in fact the approach of the tribunal in the instant case. The High Court which examined the issue from a different angle as well was, in our view, justified in affirming the award of the tribunal.

[15] As the settlement entered into in the course of conciliation proceedings assumes crucial importance in the present case, it is necessary for us to recapitulate the fairly well settled legal position and principles concerning the binding effect of the settlement and the grounds on the which settlement is vulnerable to attack in an industrial adjudication. Analysing the relative scope of various clauses of S. 18, this Court in the case of *Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd.* (1991 (1)SCC 4) succinctly summarized the position thus :-

"Settlements are divided into two categories, namely, (i) those arrived at outside the conciliation proceedings (S. 18(i) and (ii) those arrived at in the course of conciliation proceedings (S. 18(3)). A settlement which belongs to the first category has limited application in that it merely binds the parties to the agreement. But a settlement arrived at in the course of conciliation proceedings with a recognised majority union has extended

application as it will be binding on all workmen of the establishment, even those who belong to the minority union which had objected to the same. To that extent it departs from the ordinary law of contract. The object obviously is to uphold the sanctity of settlements reached with the active assistance of the Conciliation Officer and to discourage an individual employee or a minority union from scuttling the settlement. There is an underlying assumption that a settlement reached with the help of the Conciliation Officer must be fair and reasonable and can, therefore, safely be made binding not only on the workmen belonging to the union signing the settlement but also on the others. That is why a settlement arrived at in the course of conciliation proceedings is put on par with an award made by an adjudicatory authority."

In *General Manager, Security Paper Mill v. R.S. Sharma* (AIR 1986 SC 954), E.S. Venkata-ramiah, J. Speaking for the Court explained the rationale behind S. 18(3) thus :-

"Even though a Conciliation Officer is not competent to adjudicate upon the disputes between the management and its workmen he is expected to assist them to arrive at a fair and just settlement. He has to play the role of an adviser and friend of both the parties and should see that neither party takes undue advantage of the situation. Any settlement arrived at should be a just and fair one. It is on account of this special feature of the settlement sub-sec. (3) of S.18 of the Industrial Disputes Act, 1947 provides that a settlement arrived at in the course of conciliation proceeding under that Act shall be binding on (i) all parties to the industrial dispute, (ii) where a party referred to in clause (i) is an employer, his heirs, successors, or assigns in respect of the establishment to which the dispute relates and (iii) where a party referred to in Cl. (i) is comprised of workmen, all persons who were employed in the establishment or part of the establishment as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part. Law thus attaches importance and sanctity to settlement arrived at in the course of a conciliation proceeding since it carries a presumption that it is just and fair and makes it binding on all the parties as well as the other workmen in the establishment or the part of it to which it relates as stated above."

[16] Admittedly, the settlement arrived at in the instant case was in the course of conciliation proceedings and, therefore, it carries a presumption that it is just and fair. It becomes binding on all the parties to the dispute as well as the other workmen in the establishment to which the dispute relates and all other persons who may be subsequently employed in that establishment. An individual employee cannot seek to wriggle out of the settlement merely because it does not suit him.

[17] The next principle to be borne in mind is that in a case where the validity of the settlement is assailed, the limited scope of enquiry would be, whether the settlement arrived at in accordance with sub-sections (1) to (3) of S. 12, is on the whole just and fair and reached bona fide. An unjust, unfair or mala fide settlement militates against the spirit and basic postulate of the agreement reached as a result of conciliation and, therefore, such settlement will not be given effect to while deciding an industrial dispute. Of course, the issue has to be examined keeping in view the presumption that is attached to the settlement under S. 12(3).

[18] In *Herbertsons Limited v. Workmen* (1976 (4) SCC 736), this Court called for a finding on the point whether the settlement was fair and just and it is in the light of the findings of the Tribunal that the appeal was disposed of. Goswami, J. speaking for the three-Judge Bench made it clear that the settlement cannot be judged on the touchstone of the principles which are relevant for adjudication of an industrial dispute. It was observed that the Tribunal fell into an error in invoking the principles that should govern the adjudication

of a dispute regarding dearness allowance in judging whether the settlement was just and fair. The rationale of this principle was explained thus :-

"There may be several factors that may influence parties to come to a settlement as a phased endeavour in the course of collective bargaining. Once cordiality is established between the employer and labour in arriving at a settlement which operates well for the period that is in force, there is always a likelihood of further advances in the shape of improved emoluments by voluntary settlement avoiding friction and unhealthy litigation. This is the quintessence of settlement which Courts and Tribunals should endeavour to encourage. It is in that spirit the settlement has to be judged and not by the yardstick adopted in scrutinizing an award in adjudication."

30. Thus in view of law laid down by Hon'ble Supreme Court in the above said case, it is not open to the Industrial Tribunal to ignore the settlement or to belittle its effect and when the settlement is arrived at in the course of conciliation proceedings, it carries presumption that it was just and fair and it becomes binding on all the parties to the dispute as well as the other workmen in their establishment to which the dispute relates and all other persons, who may be subsequently employed in that establishment.

31. In the case in hand, the validity of the settlement Ext. RW1/C has not been assailed; rather the petitioner in rejoinder has pleaded that the settlement dated 25.8.2015 is related to different demands of the workers and the separation of surplus manpower, who were retrenched in the year 2014 and has further claimed that since his services were terminated on 1.12.2016, the management and Workers Union settlement dated 25.8.2015 (Ext. RW1/C) is not applicable to the present case. The petitioner though has tried to assail the same on the ground that he has not signed the same, yet in view of law laid down by the Hon'ble Supreme Court in abovesaid case, since the settlement was arrived in the course of conciliation proceedings in between the respondent and the Workers Union under Section 18 (3) of the I. D. Act, it is binding upon the petitioner as well.

32. So far as the plea of the petitioner that it is related to the different demands as well as separation of surplus manpower, who were terminated in the year 2014, is concerned, the same is also not tenable as the Workers Union, as has been observed above, vide demand charter Ext. RW1/D, had not raised any demand with regard to the workers terminated in the year 2014 nor there was any settlement with regard to the workmen retrenched in the year 2014; rather, on the demands having been raised by the Workers Union, it was agreed between the parties that the surplus manpower shall be decided at the discretion of the management by following the applicable laws. Hence this plea of the petitioner cannot be accepted. Consequently, it can safely be held that a valid settlement Ext. RW1/C had taken place between the Workers Union and the respondent on 25.8.2015 in the course of conciliation proceedings before Conciliation Officer and therefore it is binding on all including petitioner, but it was not final in the sense that the services of the surplus workmen were to be terminated as per terms and conditions of settlement Ext. RW1/C.

33. The respondent has not denied the fact of termination of the services of the petitioner w.e.f. 1.12.2016, but the respondent has taken plea that his services were terminated as per settlement Ext. RW1/C and therefore the petitioner cannot challenge the same. Before appreciating evidence led by both the parties qua this aspect of case, it would be apt to produce the terms and conditions of the settlement Ext. RW1/C which reads as under:—

1. Both the parties have agreed for separation of surplus manpower at the power plant. The surplus manpower shall be decided at the discretion of the management by following the applicable laws.
2. The willing workmen shall be given preference for separation (Non Technical Employees).

3. Both the parties have agreed for payment of Rs.2.00 lakhs (Rupees two lakhs only) as one time full and final settlement amount against separation.
4. It is agreed that the management shall take the employees on their own rolls and issue appointment letters, identity cards and pay slips after amicable separation of the surplus manpower as agreed.
5. It is agreed that management shall make the payment of wages in lieu of earned leaves to the eligible persons.
6. It is agreed that the EPF has to be deducted and remitted to PF department directly by the company as per law.
7. The shoes, raincoats and Jackets are already being issued to the employees and will be continued in future as existing practice. The matter of issuance of uniform shall be placed before the top management for kind consideration.
8. The payment of bonus has already been made to all the employees and continues to pay as per existing practice rules.
9. The Increment of 10% on Gross Salary for the employees who shall be taken on company rolls will be given for the year 2015 after separation of surplus manpower, where 7% increment is already provided ie. Breakup of proposed 10% increment is 7% increment +3% performance incentive).
10. The proposal of Medical insurance/facility shall be put forward to the management for favorable consideration.
11. It is agreed that the designation to be workmen will be given basing on the work performed by them.
12. The matter related to the Date of joining shall be discussed with the parties with proper records and cross verification on later date without hearing on this settlement at this juncture.
13. Both the parties are satisfied with the above settlement.
14. There remained no further dispute between the parties regarding the demand notice dated 17.7.2014 and the demand of the management.
15. The management has agreed to give preference to the separation workers in the employments occurring after separation as per the provisions of section 25-H of the Industrial Disputes Act, 1947".

34. Thus, it is evident from the aforesaid terms and conditions of the settlement that both the parties had agreed for separation (retrenchment) of the surplus manpower in the power plant which was to be decided at discretion of the management, but by following applicable laws and willing workmen were to be given preference and both the parties have agreed for payment of Rs.2 lakhs as one time full and final settlement amount against separation. Thus, discretion to decide surplus manpower was with the respondent but it was to be exercised in accordance with applicable laws. Thus, only question which requires adjudication is whether the respondent has terminated the services of the petitioner in accordance with applicable laws.

35. The petitioner was engaged as a workman and therefore, he could have been terminated as per the provisions of the I. D. Act. As per provisions of Section 25-F of the I. D. Act no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice and retrenchment compensation. Further, as per Section 25-G of the I. D. Act, the employer shall ordinarily retrench the workman, who was the last person to be employed in that category, unless for reasons to be recorded, the employer retrench any other workman.

36. Since, as per settlement Ext. RW1/C the surplus manpower were to be retrenched as per provisions of Sections 25-F and 25-G of the I. D. Act, the respondent was required to issue one month's notice to the petitioner or to pay one month's wages in lieu of notice period as well as compensation to him as the respondent nowhere has disputed that the petitioner was not in continuous service; rather as per the case of the respondent, one month wages, in lieu of notice period were paid to the petitioner, but he had refused to receive the same. The respondent was also required to retrench workman junior to the petitioner before retrenchment of the petitioner by following the principle of 'last come first go'. In order to prove this fact the respondent was required to produce copy of the order or the copy of the proceedings whereby the surplus workmen were identified, however, the respondent has not produced the copy of any such order or proceedings on record.

37. Even if all these facts are ignored, the respondent has not terminated the services of the petitioner as per provisions of Section 25-F of the I.D. Act. The respondent has pleaded that on 30.11.2016 the list of the workers was notified and they including petitioner were requested to collect their compensation cheques but the petitioner refused to receive the same and as such compensation cheque amounting to Rs.2 lakhs and another cheque of salary for November and December, 2016, bonus for financial year 2015-16 and payment of balance leave encashment were despatched to the petitioner through registered post on 1.12.2016 and Nirmal Kumar, RW1 has also stated so, however, the respondent has not led any cogent evidence on record to prove that the cheque of Rs.2 lakh Ext. RW1/L and cheque of Rs.15,260/- Ext. RW1/K were tendered to the petitioner on 30.11.2016. Though both the cheques are dated 30.11.2016 and letter Ext. RW1/M with regard to payment of full and final settlement also bears date 30.11.2016, yet the registered letter Ext. RW1/J bears postal stamp dated 21.12.2016 which means that the aforesaid cheques alongwith letter Ext. RW1/M were not sent to the petitioner on 1.12.2016 as claimed by the respondent, but on 21.12.2016 and there is nothing in the evidence of the petitioner from which it could be inferred that the aforesaid cheques were handed over to him petitioner on 30.11.2016 as the petitioner Bhag Chand PW1 was not suggested that the cheques were handed over to him on 30.11.2016; rather he was suggested that the respondent had sent the cheques amounting to Rs.2 lakhs in his favour along-with salary for the months of November and December, 2016, which was denied by him. Hence it is established on record that the wages in lieu of notice period as well as compensation were not paid to the petitioner on 30.11.2016.

38. Hon'ble Supreme Court in **Anoop Sharma vs. Executive Engineer, Public Health Division No.1, Panipat (Haryana), 2010 (5) SCC 497** has held that the employee should be paid the wages for the notice period on the day when he was asked to go and not afterwards. Since the respondent, in the case in hand, had not paid the wages of notice period as well as compensation to the petitioner on the day when he was asked to go i.e. 30.11.2016, it can safely be concluded that the services of the petitioner were terminated by the respondent in violation of Section 25-F of the I.D.Act as well as terms and conditions of settlement Ext. RW1/C.

39. The petitioner, however, has not led any cogent evidence to prove that the respondent has retained workmen junior to him in service while terminating his services and has violated the principle of 'last come first go' and therefore violation of Section 25-G is not proved.

40. The petitioner has also taken plea that the Manager of the respondent company vide affidavit dated 9.04.2009, the copy whereof is Ext. PW1/D on record, has undertaken to provide job to him for a period for 40 years as the land of his wife was given for the construction of the project, however, the petitioner has not produced any document on record to prove that the land of his wife was acquired/ taken by the respondent. As per affidavit PW1/D, the land of Punni Devi D/o Bauju Ram was being acquired/taken for construction of the power project, but as per affidavit, Punni Devi was to be given employment. The petitioner thus has not led any cogent evidence to prove that land of his wife was acquired or used for construction of the project and in lieu thereof, he was to be given employment and therefore he is not entitled to any relief on this count.

41. The petitioner, thus, has proved on record that the respondent has terminated his services in violation of the terms and condition of settlement Ext. RW1/C and the provisions of Section 25-F of the I. D. Act.

42. The Hon'ble Supreme Court in **Bharat Sanchar Nigam Ltd. vs. Bhuramal** 2014 7 SCC 177 in para nos. 23 to 26 has held as under:—

“23. It is clear from the reading of the aforesaid judgments that the ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act, this Court is consistent in taking the view in such cases reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious.

24. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F of the Industrial Disputes Act, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization (See: State of Karnataka vs. Uma Devi (2006) 4 SCC 1). Thus when he cannot claim regularization and he has no right to continue even as a daily wage worker, no useful purpose is going to be served in reinstating such a workman and he can be given monetary compensation by the Court itself inasmuch as if he is terminated again after reinstatement, he would receive monetary compensation only in the form of retrenchment compensation and notice pay. In such a situation, giving the relief of reinstatement, that too after a long gap, would not serve any purpose.

25. We would, however, like to add a caveat here. There may be cases where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained. There may also be a situation that persons junior to him were regularized under some policy but the concerned workman terminated. In such circumstances, the terminated worker should not be denied reinstatement unless there are some other weighty reasons for adopting the course of grant of compensation

instead of reinstatement. In such cases, reinstatement should be the rule and only in exceptional cases for the reasons stated to be in writing, such a relief can be denied.

26. Applying the aforesaid principles, let us discuss the present case. We find that the respondent was working as a daily wager. Moreover, the termination took place more than 11 years ago. No doubt, as per the respondent he had worked for 15 years. However, the fact remains that no direct evidence for working 15 years has been furnished by the respondent and most of his documents are relatable to two years i.e. 2001 and 2002. Therefore, this fact becomes relevant when it comes to giving the relief. Judicial notice can also be taken of the fact that the need of lineman in the telephone department is drastically reduced after the advancement of technology. For all these reasons, we are of the view that ends of justice would be met by granting compensation in lieu of reinstatement. In *Man Singh (supra)* which was also a case of BSNL, this Court had granted compensation of Rs.2 Lakh to each of the workmen when they had worked for merely 240 days. Since the respondent herein worked for longer period, we are of the view that he should be paid a compensation of Rs. 3 lakhs. This compensation should be paid within 2 months failing which the respondent shall also be entitled to interest at the rate of 12% per annum from the date of this judgment. Award of the CGIT is modified to this extent. The appeal is disposed of in the above terms. The respondent shall also be entitled to the cost of Rs.15,000/- (Rupees Fifteen Thousand only) in this appeal.

43. This judgment was followed by the Hon'ble Supreme Court in **DEPUTY EXECUTIVE ENGINEER V/S KUBERBHAI KANJIBHAI AIR 2019 SC 517**.

44. Thus, in view of law laid down by the Hon'ble Supreme Court in the aforesaid cases where the termination of daily wage worker is found illegal because of procedural defect, namely in violation of Section 25-F of the Industrial Disputes Act reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice except where termination of a daily wage worker is found to be illegal on the ground it was resorted to as unfair labour practice or in violation of the principle of last come first go viz. while retrenching such a worker daily wage juniors to him were retained.

45. In the case in hand, it has not been established on record that the respondents resorted to unfair labour practices or violated the principle of 'last come first go' and therefore the petitioner is entitled to compensation instead of reinstatement.

46. Hence, in view of aforesaid facts and circumstances of the case and also the settlement Ext. RW1/C arrived in between the parties whereby sum of Rs.2 lakhs was agreed to be paid as compensation to the employees to be retrenched being surplus, but in the year 2015, I am of the considered view that it would be just, proper and reasonable to award a sum of Rs. 5 lakhs as compensation to the petitioner. Consequently, issue No.1 is partly decided in favour of the petitioner, issue No.2 is partly decided in favour of the respondent and issue No.3 is decided against the respondent and are answered as such.

Issue No.4

47. In view of my findings on issues No.1 and 2, the petitioner has proved cause of action to file the present petition. Hence this issue is decided against the respondent and is answered in the negative.

Issue No.5

48. The petitioner has raised the industrial dispute and the appropriate Government has made reference to this court for adjudication and therefore this court has jurisdiction to try the present case. Hence this issue is decided against the respondent and is answered in negative.

Issue No.6

49. It is fairly well settled by now that no period of limitation prescribed under the I.D. Act for making reference under Section 10 of the I.D. Act. Even otherwise, the services of the petitioner were terminated on 1.12.2016 and has raised the industrial dispute in the year 2017 and therefore the claim of the petitioner is not time barred. Hence this issue is decided against the respondent and is answered in negative.

Relief

50. In view of my returned findings on the aforesaid issues, the claim petition is partly allowed and in addition to the admitted unpaid salary for the November, 2016, bonus for the year 2015-16 and leave encashment amount, a sum of Rs.5 lakh (Rupees five lakhs only) is awarded as compensation to the petitioner for termination of his services in violation of the provisions of Section 25-F of the I.D. Act by the respondent. The respondent shall pay the aforesaid amount within period of three months, failing which the respondent shall pay interest @ 12% interest per annum on the aforesaid amount from the date of filing petition till realization of the amount. However, under the peculiar facts and circumstances of the case, the parties are left to bear their own costs. The reference is answered accordingly.

51. A copy of this Award be sent to the appropriate Government for publication in the official gazette. File after its due completion be consigned to the Record Room.

Announced in the open Court today, this 30th day of April, 2024.

Sd/-
(NARESH KUMAR),
Presiding Judge,
Labour Court-cum-Industrial Tribunal,
Kangra at Dharamshala, H.P.

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं० : /तहसील/रीडर/2024

तृप्ता पुत्री श्री मचलू निवासी मुहल्ला/गांव चैणी, डा० सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत गुवाड, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 3123/2024, दिनांक 15-07-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2023-2868, दिनांक 19-02-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया तृप्ता पुत्री श्री मचलू, निवासी मुहल्ला/गांव चैणी, डा0 सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 08-03-1993 किन्हीं कारणों से ग्राम पंचायत गुवाड के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत गुवाड के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया तृप्ता पुत्री श्री मचलू, निवासी मुहल्ला/गांव चैणी, डा0 सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 08-03-1993 को ग्राम पंचायत गुवाड के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 08-03-1993 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

धोनिया पुत्र श्री चन्द, निवासी मुहल्ला/गांव हैला, डा0 सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत गुवाड, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2672/2024, दिनांक 15-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-11693, दिनांक 13-06-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी धोनिया पुत्र श्री चन्द, निवासी मुहल्ला/गांव हैला, डा0 सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1964 किन्हीं कारणों से ग्राम पंचायत गुवाड के कार्यालय अभिलेख में दर्ज न हुई है जोकि

नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत गुवाड के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी धोनिया पुत्र श्री चन्द, निवासी मुहल्ला/गांव हैला, डा0 सराहन, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1964 को ग्राम पंचायत गुवाड के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 01-07-1964 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

मोनिका पुत्री श्री विटू, निवासी मुहल्ला/गांव बडोट, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत सिल्लाघाट, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2608/2024, दिनांक 11-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-6872, दिनांक 18-03-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया कान्तो पत्नी श्री विटू, निवासी मुहल्ला/गांव बडोट, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी पुत्री की जन्म तिथि 03-05-2009 किन्हीं कारणों से ग्राम पंचायत सिल्लाघाट के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी पुत्री की जन्म तिथि को ग्राम पंचायत सिल्लाघाट के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया कान्तो पत्नी श्री विटू, निवासी मुहल्ला/गांव बडोट, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी पुत्री की जन्म तिथि 03-05-2009 को ग्राम पंचायत सिल्लाघाट के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की पुत्री की जन्म तिथि 03-05-2009 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

हेम राज पुत्र श्री धारो, निवासी मुहल्ला/गांव द्रबड, डा0 प्लयूर, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत प्लयूर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4764/2024, दिनांक 11-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-19191, दिनांक 09-10-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी हेम राज पुत्र श्री धारो, निवासी मुहल्ला/गांव द्रबड, डा0 प्लयूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 03-12-1965 किन्हीं कारणों से ग्राम पंचायत प्लयूर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत प्लयूर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी हेम राज पुत्र श्री धारो, निवासी मुहल्ला/गांव द्रबड, डा0 प्लयूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 03-12-1965 को ग्राम पंचायत प्लयूर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 03-12-1965 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

हैपी पुत्र श्री मुनीम, निवासी मुहल्ला/गांव बोगा, डा० रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत रजेरा, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना०) चम्बा के कार्यालय पृष्ठांकन संख्या 2551/2024, दिनांक 10-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-11062, दिनांक 30-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी हैपी पुत्र श्री मुनीम, निवासी मुहल्ला/गांव बोगा, डा० रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-03-1999 किन्हीं कारणों से ग्राम पंचायत रजेरा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रजेरा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी हैपी पुत्र श्री मुनीम, निवासी मुहल्ला/गांव बोगा, डा० रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-03-1999 को ग्राम पंचायत रजेरा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 01-03-1999 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि०प्र०)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

रीमा पुत्री श्री सुन्दर, निवासी मुहल्ला/गांव बोगा, डा० रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2550/2024, दिनांक 10-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-11058, दिनांक 30-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया रीमा पुत्री श्री सुन्दर, निवासी मुहल्ला/गांव बोगा, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 27-04-1999 किन्हीं कारणों से ग्राम पंचायत रजेरा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रजेरा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया रीमा पुत्री श्री सुन्दर, निवासी मुहल्ला/गांव बोगा, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 27-04-1999 को ग्राम पंचायत रजेरा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 27-04-1999 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

पुष्पा पुत्री श्री श्रवण, निवासी मुहल्ला/गांव द्रमण, डा0 साच, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत साच, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2607/2024, दिनांक 11-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-11358, दिनांक 07-06-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया पुष्पा पुत्री श्री श्रवण, निवासी मुहल्ला/गांव द्रमण, डा0 साच, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि

20-05-1968 किन्हीं कारणों से ग्राम पंचायत साच के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत साच के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया पुष्पा पुत्री श्री श्रवण, निवासी मुहल्ला/गांव द्रमण, डा0 साच, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 20-05-1968 को ग्राम पंचायत साच के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 20-05-1968 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

विमला देवी पुत्री श्री दयालो, निवासी मुहल्ला/गांव व डा0 भनौता, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत भनौता, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2647/2024, दिनांक 13-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10880, दिनांक 28-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया विमला देवी पुत्री श्री दयालो, निवासी मुहल्ला/गांव व डा0 भनौता, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 24-04-1968 किन्हीं कारणों से ग्राम पंचायत भनौता के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत भनौता के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया विमला देवी पुत्री श्री दयालो, निवासी मुहल्ला/गांव व डा0 भनौता, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 24-04-1968 को ग्राम पंचायत भनौता के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की

सूरत में प्रार्थिया की जन्म तिथि 24-04-1968 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

लता कुमारी पुत्री श्री अमरो, निवासी मुहल्ला/गांव ककला, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत रजेरा, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2684/2024, दिनांक 18-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10105, दिनांक 13-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया लता कुमारी पुत्री श्री अमरो, निवासी मुहल्ला/गांव ककला, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 22-04-1992 किन्हीं कारणों से ग्राम पंचायत रजेरा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रजेरा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया लता कुमारी पुत्री श्री अमरो, निवासी मुहल्ला/गांव ककला, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 22-04-1992 को ग्राम पंचायत रजेरा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 22-04-1992 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

लियाकत अली पुत्र श्री मुहम्मद आजम, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत बरोर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4780/2024, दिनांक 14-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-19198, दिनांक 09-10-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी मुहम्मद आजम पुत्र उमरदीन, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 02-08-2008 किन्हीं कारणों से ग्राम पंचायत बरोर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसके पुत्र की जन्म तिथि को ग्राम पंचायत बरोर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी मुहम्मद आजम पुत्र उमरदीन, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 02-08-2008 को ग्राम पंचायत बरोर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र की जन्म तिथि 02-08-2008 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

रुखसार पुत्री श्री मुहम्मद आजम, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत बरोर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4781/2024, दिनांक 14-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-19197, दिनांक 09-10-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी मुहम्मद आजम पुत्र उमरदीन, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी पुत्री की जन्म तिथि 03-09-2006 किन्हीं कारणों से ग्राम पंचायत बरोर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी पुत्री की जन्म तिथि को ग्राम पंचायत बरोर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी मुहम्मद आजम पुत्र उमरदीन, निवासी मुहल्ला/गांव मासर, डा0 बरोर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी पुत्री की जन्म तिथि 03-09-2006 को ग्राम पंचायत बरोर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की पुत्री की जन्म तिथि 03-09-2006 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

शिवा पुत्र श्री शलेन्द्र, निवासी मुहल्ला/गांव गणजी, डा0 सराहण, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत गुवाड, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4742/2024, दिनांक 10-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा

अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-18861, दिनांक 04-10-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी शलेन्द्र पुत्र श्री अमर सिंह, निवासी मुहल्ला/गांव गणजी, डा0 सराहण, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 17-09-2011 किन्हीं कारणों से ग्राम पंचायत गुवाड के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसके पुत्र की जन्म तिथि को ग्राम पंचायत गुवाड के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी शलेन्द्र पुत्र श्री अमर सिंह, निवासी मुहल्ला/गांव गणजी, डा0 सराहण, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 17-09-2011 को ग्राम पंचायत गुवाड के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र की जन्म तिथि 17-09-2011 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

पुष्पा पुत्री श्री विदो, निवासी मुहल्ला/गांव चनाडु, डा0 रठियार, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत रठियार, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2283/2024, दिनांक 21-05-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10445, दिनांक 18-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया पुष्पा पुत्री श्री विदो, निवासी मुहल्ला/गांव चनाडु, डा0 रठियार, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 28-01-1980 किन्हीं कारणों से ग्राम पंचायत रठियार के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रठियार के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया पुष्पा पुत्री श्री विदो, निवासी मुहल्ला/गांव चनाडु, डा0 रठियार, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 28-01-1980 को ग्राम पंचायत रठियार के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 28-01-1980 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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विकेश पुत्र श्री सुरेदर, निवासी मुहल्ला/गांव गली, डा0 उटीप, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत उटीप, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4259/2024, दिनांक 13-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-17419, दिनांक 13-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी विकेश पुत्र श्री सुरेदर, निवासी मुहल्ला/गांव गली, डा0 उटीप, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 25-03-1996 किन्हीं कारणों से ग्राम पंचायत उटीप के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत उटीप के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी विकेश पुत्र श्री सुरेदर, निवासी मुहल्ला/गांव गली, डा0 उटीप, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 25-03-1996 को ग्राम पंचायत उटीप के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 25-03-1996 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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राजेन्द्र कुमार पुत्र श्री चतरो, निवासी मुहल्ला/गांव दिवखरी, डा0 साच, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत साच, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2616/2024, दिनांक 11-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-11360, दिनांक 07-06-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी राजेन्द्र कुमार पुत्र श्री चतरो, निवासी मुहल्ला/गांव दिवखरी, डा0 साच, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 11-08-1964 किन्हीं कारणों से ग्राम पंचायत साच के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत साच के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी राजेन्द्र कुमार पुत्र श्री चतरो, निवासी मुहल्ला/गांव दिवखरी, डा0 साच, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 11-08-1964 को ग्राम पंचायत साच के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 11-08-1964 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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कांता देवी पुत्री श्री बुधिया राम, निवासी मुहल्ला/गांव धडोग चम्बा शहर, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं नगर परिषद चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना०) चम्बा के कार्यालय पृष्ठांकन संख्या 4703/2024, दिनांक 09-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-19152, दिनांक 09-10-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया कांता देवी पुत्री श्री बुधिया राम, निवासी मुहल्ला/गांव धडोग चम्बा शहर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 12-04-1963 किन्हीं कारणों से नगर परिषद चम्बा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को नगर परिषद चम्बा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया कांता देवी पुत्री श्री बुधिया राम, निवासी मुहल्ला/गांव धडोग चम्बा शहर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 12-04-1963 को नगर परिषद चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 12-04-1963 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि०प्र०)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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रीता कुमारी पुत्री श्री परस राम, निवासी मुहल्ला/गांव गुवाडी, डा० जान्ची, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत जान्धी, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4541/2024, दिनांक 28-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-18428, दिनांक 28-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया रीता कुमारी पुत्री श्री परस राम, निवासी मुहल्ला/गांव गुवाडी, डा0 जान्धी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 16-06-1983 किन्हीं कारणों से ग्राम पंचायत जान्धी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत जान्धी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया रीता कुमारी पुत्री श्री परस राम, निवासी मुहल्ला/गांव गुवाडी, डा0 जान्धी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 16-06-1983 को ग्राम पंचायत जान्धी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 16-06-1983 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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डोगरी पत्नी श्री किरपो, निवासी मुहल्ला/गांव सकडू, डा0 पलूही, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत पलूही, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4583/2024, दिनांक 01-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा

अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-18125, दिनांक 24-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी विटु पुत्र श्री किरपो, निवासी मुहल्ला/गांव सकडू, डा0 पलूहीं, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी माता की मृत्यु तिथि 08-03-2009 किन्हीं कारणों से ग्राम पंचायत पलूहीं के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी माता की मृत्यु तिथि को ग्राम पंचायत पलूहीं के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी विटु पुत्र श्री किरपो, निवासी मुहल्ला/गांव सकडू, डा0 पलूहीं, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी माता की मृत्यु तिथि 08-03-2009 को ग्राम पंचायत पलूहीं के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की माता की मृत्यु तिथि 08-03-2009 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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कनिष्क पुत्र श्री सरनो, निवासी मुहल्ला/गांव लंघेई (देहरा), डा0 साहो (पधर), तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत पधर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2874/2024, दिनांक 28-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-7758, दिनांक 02-04-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी सरनो पुत्र श्री मोहण, निवासी मुहल्ला/गांव लंघेई (देहरा), डा0 साहो (पधर), तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 09-05-2008 किन्हीं कारणों से ग्राम पंचायत पधर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत पधर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी सरनो पुत्र श्री मोहण, निवासी मुहल्ला/गांव लंघेई (देहरा), डा0 साहो (पधर), तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 09-05-2008 को ग्राम पंचायत पधर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र की जन्म तिथि 09-05-2008 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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रतो पुत्री श्री माधो, निवासी मुहल्ला/गांव भवला, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत कीडी, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या /2024, दिनांक 20-08-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10113, दिनांक 13-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया रतो पुत्री श्री माधो, निवासी मुहल्ला/गांव भवला, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1965 किन्हीं कारणों से ग्राम पंचायत कीडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कीडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया रतो पुत्री श्री माधो, निवासी मुहल्ला/गांव भवला, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1965 को ग्राम पंचायत कीडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 01-07-1965 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

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साजू पुत्री श्री इब्राहिम, निवासी मुहल्ला/गांव व डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत रजेरा, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2870/2024, दिनांक 28-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10881, दिनांक 28-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया साजू पुत्री श्री इब्राहिम, निवासी मुहल्ला/गांव व डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-03-1988 किन्हीं कारणों से ग्राम पंचायत रजेरा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रजेरा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया साजू पुत्री श्री इब्राहिम, निवासी मुहल्ला/गांव व डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-03-1988 को ग्राम पंचायत रजेरा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 02-03-1988 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

कांता देवी पुत्री श्री मोहन लाल, निवासी मुहल्ला/गांव खब्बर, डा0 कोहलडी, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत कोहलडी, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 5695/2024, दिनांक 12-11-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-20654, दिनांक 08-11-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया कांता देवी पुत्री श्री मोहन लाल, निवासी मुहल्ला/गांव खब्बर, डा0 कोहलडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-11-1968 किन्हीं कारणों से ग्राम पंचायत कोहलडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कोहलडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया कांता देवी पुत्री श्री मोहन लाल, निवासी मुहल्ला/गांव खब्बर, डा0 कोहलडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-11-1968 को ग्राम पंचायत कोहलडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 02-11-1968 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

यूनस पुत्री दीन मुहम्मद, निवासी मुहल्ला/गांव बडोह, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत पल्यूर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4211/2024, दिनांक 12-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-15467, दिनांक 21-08-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया यूनस पुत्री दीन मुहम्मद, निवासी मुहल्ला/गांव बडोह, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 12-08-2000 किन्हीं कारणों से ग्राम पंचायत पल्यूर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत पल्यूर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया यूनस पुत्री दीन मुहम्मद, निवासी मुहल्ला/गांव बडोह, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 12-08-2000 को ग्राम पंचायत पल्यूर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 12-08-2000 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

कमला देवी पुत्री श्री धनी राम, निवासी मुहल्ला/गांव पखरोग, डा0 कोहलडी, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत कोहलडी, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 5680/2024, दिनांक 12-11-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा

अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-20655, दिनांक 08-11-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया कमला देवी पुत्री श्री धनी राम, निवासी मुहल्ला/गांव पखरोग, डा0 कोहलडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-09-1960 किन्हीं कारणों से ग्राम पंचायत कोहलडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कोहलडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया कमला देवी पुत्री श्री धनी राम, निवासी मुहल्ला/गांव पखरोग, डा0 कोहलडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 02-09-1960 को ग्राम पंचायत कोहलडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 02-09-1960 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

प्रीतो पुत्री श्री कृपा राम, निवासी मुहल्ला/गांव जुखराडी, डा0 करियां, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत करियां, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4463/2024, दिनांक 26-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-18132, दिनांक 24-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया प्रीतो पुत्री श्री कृपा राम, निवासी मुहल्ला/गांव जुखराडी, डा0 करियां, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 18-05-1963 किन्हीं कारणों से ग्राम पंचायत करियां के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत करियां के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया प्रीतो पुत्री श्री कृपा राम, निवासी मुहल्ला/गांव जुखराडी, डा0 करियां, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 18-05-1963 को ग्राम पंचायत करियां के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 18-05-1963 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—

कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

धर्म चन्द पुत्र श्री चैन लाल, निवासी मुहल्ला/गांव मुचियाडी (हरदासपुरा), डा0 हरदासपुरा, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं नगर परिषद चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4464/2024, दिनांक 26-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-18131, दिनांक 24-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी धर्म चन्द पुत्र श्री चैन लाल, निवासी मुहल्ला/गांव मुचियाडी (हरदासपुरा), डा0 हरदासपुरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 03-11-1963 किन्हीं कारणों से नगर परिषद चम्बा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को नगर परिषद चम्बा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी धर्म चन्द पुत्र श्री चैन लाल, निवासी मुहल्ला/गांव मुचियाडी (हरदासपुरा), डा0 हरदासपुरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 03-11-1963 को नगर परिषद चम्बा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 03-11-1963 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

कुमारी कंचना पुत्री श्री मचलू, निवासी मुहल्ला/गांव थला, डा0 रजेरा, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत रजेरा, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4550/2024, दिनांक 28-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2028-18420, दिनांक 28-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया कुमारी कंचना पुत्री श्री मचलू, निवासी मुहल्ला/गांव थला, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 19-02-1984 किन्हीं कारणों से ग्राम पंचायत रजेरा के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत रजेरा के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया कुमारी कंचना पुत्री श्री मचलू, निवासी मुहल्ला/गांव थला, डा0 रजेरा, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 19-02-1984 को ग्राम पंचायत रजेरा के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 19-02-1984 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

सुरेन्द्र कुमार पुत्र श्री भगत, निवासी मुहल्ला/गांव गोहा, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत सिल्लाघाट, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना०) चम्बा के कार्यालय पृष्ठांकन संख्या 2477/2024, दिनांक 03-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10895, दिनांक 28-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी सुरेन्द्र कुमार पुत्र श्री भगत, निवासी मुहल्ला/गांव गोहा, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 05-10-1996 किन्हीं कारणों से ग्राम पंचायत सिल्लाघाट के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत सिल्लाघाट के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी सुरेन्द्र कुमार पुत्र श्री भगत, निवासी मुहल्ला/गांव गोहा, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 05-10-1996 को ग्राम पंचायत सिल्लाघाट के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 05-10-1996 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि०प्र०)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

गुरो पुत्री श्री रोडा, निवासी मुहल्ला/गांव द्रोवड, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2785/2024, दिनांक 20-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10884, दिनांक 28-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया गुरो पुत्री श्री रोडा, निवासी मुहल्ला/गांव द्रोवड, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1954 किन्हीं कारणों से ग्राम पंचायत कीडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कीडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया गुरो पुत्री श्री रोडा, निवासी मुहल्ला/गांव द्रोवड, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1954 को ग्राम पंचायत कीडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 01-07-1954 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

दौलत राम पुत्र श्री घैपलिया, निवासी मुहल्ला/गांव जटकरी, डा0 भडियां कोठी, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत जटकरी, विकास खण्ड मैहला

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2638/2024, दिनांक 13-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-6698, दिनांक 16-03-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी दौलत राम पुत्र

श्री घैपलिया, निवासी मुहल्ला/गांव जटकरी, डा0 भडियां कोठी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1963 किन्हीं कारणों से ग्राम पंचायत जटकरी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत जटकरी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी दौलत राम पुत्र श्री घैपलिया, निवासी मुहल्ला/गांव जटकरी, डा0 भडियां कोठी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 01-07-1963 को ग्राम पंचायत जटकरी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 01-07-1963 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

मिसो पुत्री श्री किरपा राम, निवासी मुहल्ला/गांव पुखरी, डा0 खजियार, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत कोहलडी, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4610/2024, दिनांक 01-10-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-17639, दिनांक 17-09-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया मिसो पुत्री श्री किरपा राम, निवासी मुहल्ला/गांव पुखरी, डा0 खजियार, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 25-08-1976 किन्हीं कारणों से ग्राम पंचायत कोहलडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कोहलडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया मिसो पुत्री श्री किरपा राम, निवासी मुहल्ला/गांव पुखरी, डा0 खजियार, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 25-08-1976 को ग्राम पंचायत कोहलडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी

को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 25-08-1976 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

रहमत अली पुत्र श्री अलीसैन, निवासी मुहल्ला/गांव सुकेठी, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत सिल्लाघाट, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4383/2024, दिनांक 23-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-15471, दिनांक 21-08-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी अलीसैन पुत्र श्री हासम दीन, निवासी मुहल्ला/गांव सुकेठी, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 18-09-2014 किन्हीं कारणों से ग्राम पंचायत सिल्लाघाट के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत सिल्लाघाट के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी अलीसैन पुत्र श्री हासम दीन, निवासी मुहल्ला/गांव सुकेठी, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसके पुत्र की जन्म तिथि 18-09-2014 को ग्राम पंचायत सिल्लाघाट के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी के पुत्र की जन्म तिथि 18-09-2014 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

जरीया पुत्री श्री अबदुला, निवासी मुहल्ला/गांव बनून, डा0 सिल्लाघाट, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत सिल्लाघाट, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 4384/2024, दिनांक 23-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-15472, दिनांक 21-08-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया जरीया पुत्री श्री अबदुला, निवासी मुहल्ला/गांव बनून, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 16-08-1990 किन्हीं कारणों से ग्राम पंचायत सिल्लाघाट के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत सिल्लाघाट के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया जरीया पुत्री श्री अबदुला, निवासी मुहल्ला/गांव बनून, डा0 सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 16-08-1990 को ग्राम पंचायत सिल्लाघाट के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 16-08-1990 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

अलीसैन पुत्र श्री हासम दीन, निवासी मुहल्ला/गांव सुकेठी, डा० सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत सिल्लाघाट, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना०) चम्बा के कार्यालय पृष्ठांकन संख्या 4382/2024, दिनांक 28-09-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-15470, दिनांक 21-08-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी अलीसैन पुत्र श्री हासम दीन, निवासी मुहल्ला/गांव सुकेठी, डा० सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 06-02-1992 किन्हीं कारणों से ग्राम पंचायत सिल्लाघाट के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत सिल्लाघाट के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी अलीसैन पुत्र श्री हासम दीन, निवासी मुहल्ला/गांव सुकेठी, डा० सिल्लाघाट, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 06-02-1992 को ग्राम पंचायत सिल्लाघाट के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 06-02-1992 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि०प्र०)।

**ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश**

मिसल नं० : /तहसील/रीडर/2024

धिमो पुत्री श्री किशनू, निवासी मुहल्ला/गांव बेई, डा० कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2863/2024, दिनांक 27-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-9374, दिनांक 27-04-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया घिमो पुत्री श्री किशनू निवासी मुहल्ला/गांव बेई, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 15-08-1985 किन्हीं कारणों से ग्राम पंचायत कीडी के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत कीडी के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया घिमो पुत्री श्री किशनू निवासी मुहल्ला/गांव बेई, डा0 कीडी, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 15-08-1985 को ग्राम पंचायत कीडी के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 15-08-1985 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित/—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

धनो पुत्री श्री मोहन, निवासी मुहल्ला/गांव झिकडू, डा0 साहो, तहसील व जिला चम्बा,
हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत पधर साहो, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2693/2024, दिनांक 18-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2023-4169, दिनांक 26-02-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थिया धनो पुत्री श्री

मोहन, निवासी मुहल्ला/गांव झिकडू, डा0 साहो, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 29-11-1974 किन्हीं कारणों से ग्राम पंचायत पधर साहो के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदिका ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत पधर साहो के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थिया धनो पुत्री श्री मोहन, निवासी मुहल्ला/गांव झिकडू, डा0 साहो, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 29-11-1974 को ग्राम पंचायत पधर साहो के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को आपत्ति हो तो वह असालतन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थिया की जन्म तिथि 29-11-1974 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार, तहसील सदर चम्बा,
जिला चम्बा, हिमाचल प्रदेश

मिसल नं0 : /तहसील/रीडर/2024

इब्राहीम पुत्र श्री मीर हमजा, निवासी मुहल्ला/गांव कैहलाला, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश।

बनाम

आम जनता एवं ग्राम पंचायत पल्यूर, विकास खण्ड चम्बा

विषय.—जन्म/मृत्यु सम्बन्धित पंजीकरण बारा।

इस अदालत में उप-मण्डलाधिकारी (ना0) चम्बा के कार्यालय पृष्ठांकन संख्या 2622/2024, दिनांक 12-06-2024 के माध्यम से प्राप्त दस्तावेज क्रमशः (1) जिला पंजीकरण (जन्म एवं मृत्यु) मुख्य चिकित्सा अधिकारी चम्बा के कार्यालय पत्र संख्या HFW-B&D/CMO-CBA/2024-10882, दिनांक 28-05-2024, शपथ-पत्र, अप्राप्यता प्रमाण-पत्र, नकल आधार कार्ड, नकल स्कूल प्रमाण-पत्र जिसमें प्रार्थी इब्राहीम पुत्र श्री मीर हमजा, निवासी मुहल्ला/गांव कैहलाला, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 09-12-1982 किन्हीं कारणों से ग्राम पंचायत पल्यूर के कार्यालय अभिलेख में दर्ज न हुई है जोकि नियमानुसार दर्ज होना अनिवार्य है। इसलिए आवेदक ने अनुरोध किया है कि उसकी जन्म तिथि को ग्राम पंचायत पल्यूर के जन्म रजिस्टर में दर्ज/पंजीकृत किया जाये।

अतः सर्वसाधारण जनता को इस इशतहार द्वारा सूचित किया जाता है कि प्रार्थी इब्राहीम पुत्र श्री मीर हमजा, निवासी मुहल्ला/गांव कैहलाला, डा0 पल्यूर, तहसील व जिला चम्बा, हिमाचल प्रदेश में उसकी जन्म तिथि 09-12-1982 को ग्राम पंचायत पल्यूर के जन्म/मृत्यु अभिलेख में दर्ज करने बारा अगर किसी को

आपत्ति हो तो वह असातन या वकालतन अपनी आपत्ति इस अदालत में इशतहार के प्रकाशन के एक माह के भीतर-भीतर सुबह 10.00 से सायं 5.00 बजे तक दर्ज करवा सकता है। निर्धारित अवधि में आपत्ति न आने की सूरत में प्रार्थी की जन्म तिथि 09-12-1982 को दर्ज करने के आदेश सम्बन्धित स्थानीय रजिस्ट्रार, जन्म एवं मृत्यु को पारित कर दिए जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर न्यायालय से जारी हुए हैं।

मोहर।

हस्ताक्षरित /—
कार्यकारी दण्डाधिकारी एवं नायब तहसीलदार,
तहसील सदर चम्बा, जिला चम्बा (हि0प्र0)।

ब अदालत सहायक समाहर्ता द्वितीय श्रेणी, धामी, जिला शिमला (हि0प्र0)

मुकद्दमा संख्या : 09 / 2024

तारीख मरजुआ : 04-12-2024

तारीख पेशी : 30-12-2024

श्रीमती कला देवी पत्नी स्व0 श्री रती राम, गांव घण्डल, डा0 शकराह, उप-तहसील धामी, जिला शिमला (हि0प्र0)।

बनाम

आम जनता

राजस्व अभिलेख में नाम दुरुस्ती बारे प्रार्थना-पत्र।

प्रार्थिया श्रीमती कला देवी पत्नी स्व0 श्री रती राम, गांव घण्डल, डा0 शकराह, उप-तहसील धामी, जिला शिमला (हि0प्र0) ने दिनांक 04-12-2024 को प्रार्थना-पत्र इस आशय के साथ इस अदालत में प्रस्तुत किया है कि भू-राजस्व अभिलेख मौजा घण्डल में प्रार्थिया का नाम विद्या देवी विधवा रती राम दर्ज राजस्व कागजात है जो कि गलत है। प्रार्थिया के प्रार्थना-पत्र को छानबीन हेतु पटवारी हल्का घण्डल को भेजा गया। पटवारी पटवार वृत्त घण्डल से प्राप्त रिपोर्ट के मुताबिक मौजा घण्डल में प्रार्थिया का नाम विद्या देवी विधवा रती राम दर्ज है। जबकि प्रार्थिया द्वारा प्रस्तुत किए गए दस्तावेजों आधार कार्ड, आयकर कार्ड, ग्राम पंचायत घण्डल से जारी परिवार नकल व शपथ पत्र तथा ब्यानात वाशिन्दगान के अनुसार प्रार्थिया का नाम कला देवी है जो सही है। उपरोक्त तथ्यों के आधार पर मौजा घण्डल, पटवार वृत्त घण्डल में प्रार्थिया का नाम विद्या देवी उर्फ कला देवी विधवा रती राम दर्ज किया जाना वाजिब है।

अतः इशतहार द्वारा सूचित किया जाता है कि यदि किसी को भी उपरोक्त मुकद्दमा नाम दुरुस्ती बारे कोई भी उजर व एतराज हो तो स्वयं या लिखित तौर पर दिनांक 30-01-2025 को अपराह्न 2.00 बजे तक इस अदालत में अपना उजर/ एतराज पेश करें, अन्यथा यह समझा जायेगा कि किसी भी सम्बन्धित व्यक्ति को इस मुकद्दमा नाम दुरुस्ती बारे कोई उजर/ एतराज न है तथा आवेदन-पत्र को अन्तिम रूप दिया जायेगा व एकतरफा कार्यवाही अमल में लाई जाएगी।

आज तारीख 30-12-2024 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता द्वितीय श्रेणी,
उप-तहसील धामी, तहसील व जिला शिमला (हि0प्र0)।

**In the Court of Sh. Mukesh Sharma, HPAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.**

In the matter of :

1. Shri Tarun Kumar s/o Shri Man Dass, r/o Village Bagoti Kandaghat, P.O. Barog, Tehsil Theog, District Shimla, Himachal Pradesh.

2. Smt. Divya d/o Late Sh. Prem Prakash Chawla, r/o F-2/107, Sector-15, Rohini, Delhi India-110 089 . . Applicants.

Versus

General Public . . Respondents.

Proclamation for the registration of marriage under section 15 of the Special Marriage Act, 1954.

Shri Tarun Kumar s/o Shri Man Dass, r/o Village Bagoti Kandaghat, P.O. Barog, Tehsil Theog, District Shimla, H.P. and Smt. Divya d/o Late Sh. Prem Prakash Chawla, r/o F-2/107, Sector-15, Rohini, Delhi, India-110 089 have filed an application alongwith affidavits before the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 03-1-2007 and they are living as husband and wife since then, hence their marriage is to be registered under Special Marriage Act, 1954 under section 15.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before with 30 days from the date of publication of this notice after that no objection will be entertained and marriage will be registered accordingly.

Given under my hand and seal of the court on this 10-12-2024.

Seal.

MUKESH SHARMA, HPAS,
Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.

**In the Court of Sh. Mukesh Sharma, HPAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.**

In the matter of :

1. Shri Parmesh Verma s/o Shri Surat Ram, r/o Village Dehna, P.O. Cheog, Tehsil Theog, District Shimla, Himachal Pradesh.

2. Smt. Seema Devi d/o Sh. Het Ram Sharma, r/o Village Kanashi, P.O. Satog, Tehsil Theog, District Shimla, H.P. . . Applicants.

Versus

General Public

. . Respondent.

Proclamation for the registration of marriage under section 15 of the Special Marriage Act, 1954.

Shri Parmesh Verma s/o Shri Surat Ram, r/o Village Dehna, P.O. Cheog, Tehsil Theog, District Shimla, Himachal Pradesh and Smt. Seema Devi d/o Sh. Het Ram Sharma, r/o Village Kanashi, P.O. Satog, Tehsil Theog, District Shimla, H.P. have filed an application alongwith affidavits before the court of undersigned under section 15 of Special Marriage Act, 1954 that they have solemnized their marriage on 06-03-2011 and they are living as husband and wife since then, hence their marriage is to be registered under Special Marriage Act, 1954 under section 15.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before with 30 days from the date of publication of this notice after that no objection will be entertained and marriage will be registered accordingly.

Given under my hand and seal of the court on this 10-12-2024.

Seal.

MUKESH SHARMA, HPAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.*

**In the Court of Sh. Mukesh Sharma, HPAS, Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.**

In the matter of :

1. Shri Dinesh Kumar Gupta s/o Shri Rohtam Chand Gupta, r/o Village Ward No. 1 Near Court Colony Theog, Tehsil Theog, District Shimla, Himachal Pradesh.

2. Smt. Seema Kumari d/o Sh. Hari Prasad, r/o Devender Niwas, Bothwell Estate Shimla, Urban Shimla, H.P. . . Applicants.

Versus

General Public

. . Respondent.

Proclamation for the registration of marriage under section 15 of the Special Marriage Act, 1954.

Shri Dinesh Kumar Gupta s/o Shri Rohtam Chand Gupta, r/o Village Ward No. 1 Near Court Colony Theog, Tehsil Theog, District Shimla, Himachal Pradesh and Smt. Seema Kumari d/o Sh. Hari Prasad, r/o Devender Niwas, Bothwell Estate Shimla, Urban Shimla, H.P. have filed an application alongwith affidavits before the court of undersigned under section 15 of Special

Marriage Act, 1954 that they have solemnized their marriage on 01-02-2024 and they are living as husband and wife since then, hence their marriage is to be registered under Special Marriage Act, 1954 under section 15.

Therefore, the general public is hereby informed through this notice that any person who has any objection regarding this marriage can file the objection personally or in writing before this court on or before with 30 days from the date of publication of this notice after that no objection will be entertained and marriage will be registered accordingly.

Given under my hand and seal of the court on this 10-12-2024.

Seal.

MUKESH SHARMA, HPAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Theog, District Shimla, H. P.*

In the Court of Executive Magistrate, Chopal, District Shimla (H. P.)

Smt. Suman w/o Sh. Lachman Singh, r/o Village Gorwa, P.O. Sarain, Tehsil Chopal, District Shimla (H.P.)

Versus

General Public Tehsil Chopal

Application under section 13 (3) of Birth and Death Registration Act, 1969.

Whereas, Smt. Suman w/o Sh. Lachman Singh, r/o Village Gorwa, P.O. Sarain, Tehsil Chopal, District Shimla (H.P.) has preferred an application to undersigned for registration of name of his/her son/daughter namely Mr. Aman whose date of birth is 11-03-2016 in the Gram Panchayat Sarain, Tehsil Chopal, District Shimla (H.P.).

Therefore by this proclamation, the General Public is hereby informed that any person having any objection for entry as to date of birth mentioned above, may submit his/her objection in writing in this court on or before 16-01-2025 failing which no objection will be entertained after expiry of date and will be decided accordingly.

Given under my hand and seal of the court on 16-12-2024.

Seal.

Sd/-
*Executive Magistrate,
Chopal, District Shimla (H.P.).*

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Aaryan s/o Hardyal, r/o Village Kumsu, P.O. Nogli, Tehsil Rampur, District Shimla, Himachal Pradesh

Through his Father

Sh. Hardyal s/o Balak Ram, r/o Village Kumsu, P.O. Nogli, Tehsil Rampur, District Shimla,
H.P. . . Applicants.

Versus

General Public . . Respondent.

PROCLAMATION REGARDING CORRECTION OF NAME

Whereas, the above named applicant has submitted an application through his father for the correction of his name from "AYRAN" to "AARYAN" in the records of the Aadhaar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if, anyone has any objection regarding to change their name as AARYAN s/o Hardyal in place of AYARN s/o Sh. Hardyal, they should appear before the undersigned on or before 18-01-2025 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 20th day of the December, 2024 under my hand and seal of the Court.

Seal.

Sd/-
NISHANT TOMAR, HAS,
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

In the Court of Sub-Divisional Magistrate, Rampur Bushahr, District Shimla (H.P.)

In the matter of :

Arjita d/o Sh. Bahadur Singh, r/o Village & P.O. Kut, Tehsil Rampur, District Shimla,
Himachal Pradesh . . Applicants.

Versus

General Public . . Respondent.

PROCLAMATION REGARDING CORRECTION OF NAME

Whereas, the above named applicant has submitted an application through his father for the correction of her name from "ARCHITA" to "ARJITA" in the records of the Aadhaar Card and all other relevant documents associated with the applicant.

Now, therefore, objections are invited from the general public that if, anyone has any objection regarding to change their name as ARJITA d/o Bahadur Singh in place of Archita d/o Bahadur Singh, they should appear before the undersigned on or before 18-01-2025 either personally or through their authorized agent/pleader.

In the event of their failure to do so, order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued today on 20th day of the December, 2024 under my hand and seal of the Court.

Seal.

Sd/-

NISHANT TOMAR, HAS,
Sub-Divisional Magistrate,
Rampur Bushahr, District Shimla (H.P.).

**In the Court of Ms. Kavita Thakur, Sub-Divisional Magistrate, Shimla (R),
District Shimla (H.P.)**

Sh. Mohan Lal Sharma s/o Late Sh. Padam Sharma, r/o Yashoda Niwas, Ghora Chowki, Shimla, H.P.

Versus

General Public

. . Respondent.

Whereas Sh. Mohan Lal Sharma s/o Late Sh. Padam Sharma, r/o Yashoda Niwas, Ghora Chowki, Shimla, H.P. has filed an application alongwith affidavit in the court of undersigned under section 13(3) of the Birth & Death Registration Act, 1969 to enter the date of birth of his/her son/daughter name Aman Sharma in the record of Registrar, Birth and Death, in Municipal Corporation Shimla, H.P.

Sl. No.	Name of the family member	Relation	Date of Birth
1.	Aman Sharma	son	01-11-2008

Hence, this proclamation is issued to the general public if they have any objection/claim regarding entry of the name & date of birth of above named in the record of Registrar, Birth & Death in Municipal Corporation Shimla, H.P. may file their claims/objections in the court on or before one month of publication of this notice in Govt. Gazette, failing which necessary orders will be passed.

Issued today on 21-12-2024 under my signature and seal of the court.

Seal.

Sd/-

Sub-Divisional Magistrate,
Shimla (R), District Shimla (H.P.).

**In the Court of Ms. Kavita Thakur, Sub-Divisional Magistrate, Shimla (R),
District Shimla (H.P.)**

Sh. Mohan Lal Sharma s/o Late Sh. Padam Sharma, r/o Yashoda Niwas, Ghora Chowki, Shimla, H.P.

Versus

General Public

. . Respondent.

Whereas Sh. Mohan Lal Sharma s/o Late Sh. Padam Sharma, r/o Yashoda Niwas, Ghora Chowki, Shimla, H.P. has filed an application alongwith affidavit in the court of undersigned under section 13(3) of the Birth & Death Registration Act, 1969 to enter the date of birth of his/her son/daughter name Harish Sharma in the record of Registrar, Birth and Death, in Municipal Corporation Shimla, H.P.

Sl. No.	Name of the family member	Relation	Date of Birth
1.	Harish Sharma	son	18-11-2006

Hence, this proclamation is issued to the general public if they have any objection/claim regarding entry of the name & date of birth of above named in the record of Registrar, Birth & Death in Municipal Corporation Shimla, H.P. may file their claims/objections in the court on or before one month of publication of this notice in Govt. Gazette, failing which necessary orders will be passed.

Issued today on 21-12-2024 under my signature and seal of the court.

Seal.

Sd/-

*Sub-Divisional Magistrate,
Shimla (R), District Shimla (H.P.).*

**In the Court of Sh. Vijay Wardhan, IAS, Sub-Divisional Magistrate, Rohru,
District Shimla (H.P.)**

In the matter of :

Sh. Raj Pal s/o Kalgi Ram, r/o Village Jakhnoli, P.O. Chilala, Tehsil Chirgaon, District Shimla (H.P.)

. . Applicant.

Versus

General Public

. . Respondent.

Subject.—Application under section 13 (3) of Birth and Death Registration Act, 1969.

PUBLIC NOTICE

Whereas, Sh. Raj Pal s/o Kalgi Ram, r/o Village Jakhnoli, P.O. Chilala, Tehsil Chirgaon, District Shimla (H.P.) has filed an application alongwith affidavit in the court of the undersigned under section 13(3) of the Birth & Death Registration Act, 1969, to enter date of birth of himself (Raj Pal) 05-10-1971 in the record of Birth Register of Gram Panchayat Bhamphar, Development Block Chhohara.

Now, therefore, objections are invited from the general public that if anyone has any objection regarding to enter the date of birth of Raj Pal 05-10-1971 they should appear before the court of undersigned within 30 days from the publication of this notice, either personally or through their authorized agent.

In the event of their failure to do so, it would be deemed that there is no objection and order shall be passed *ex-parte* without affording any further opportunity of being heard.

Issued under my hand and seal of the court on this 17th day of December, 2024.

Seal.

Sd/-
(VIJAY WARDHAN, IAS),
Sub-Divisional Magistrate,
Rohru, District Shimla (H.P.).

In the Court of Executive Megistrate, Kumarsain, District Shimla (H.P.)

Smt. Godawari Sirkeck d/o Sh. Devisarn Mehta, r/o Village Shiwan (Bharmoli), Post Office Shiwan, Tehsil Kumarsain, District Shimla (H.P.).

Versus

General Public

Application under section 13(3) of the Registration of Births & Deaths Act, 1969 to enter the Birth of Smt. Godawari Sirkeck d/o Sh. Devisarn Mehta, r/o Village Shiwan (Bharmoli), Post Office Shiwan, Tehsil Kumarsain, District Shimla (H.P.) in record of the Registrar, Birth & Death, Gram Panchayat Sihal Narkanda.

Whereas Smt. Godawari Sirkeck d/o Sh. Devisarn Mehta, r/o Village Shiwan (Bharmoli), Post Office Shiwan, Tehsil Kumarsain, District Shimla (H.P.) has filed an application alongwith affidavit in the court of undersigned under section 13(3) of the Registration of Births & Deaths Act, 1969 to enter the birth in record of the Registrar, Births & Deaths-cum-Secretary, Gram Panchayat Shiwan, Tehsil Kumarsain as under :—

Sl. No.	Name of person	Date of birth
1.	Smt. Godawari Sirkeck d/o Sh. Devisarn Mehta	22-05-1955

Hence, this proclamation is hereby issued to the general public and if they have any objection/claim with regard to entry of birth of Smt. Godawari Sirkeck d/o Sh. Devisarn Mehta in record of the Registrar, Births & Deaths-cum-Secretary, Gram Panchayat Shiwan, Tehsil Kumarsain, District Shimla, then they may file their written objections/claims in this court on or before one month of publication of this proclamation in Government Gazette, failing which the necessary orders will be passed for entry of birth.

Issued on 23rd day of December, 2024 under my seal & signature.

Seal.

Sd/-
*Executive Magistrate,
Kumarsain, District Shimla (H.P.).*

Office of the Sub-Divisional Magistrate, Arki, District Solan (H. P.)

Case No.
45/2024

Date of Institution
16-12-2024

Date of Decision
15-01-2025

Sh. Vikas Gupta s/o Sh. Prem Chand, r/o Village Ward No. 04, Nagar Panchayat Arki,
District Solan, Himachal Pradesh . . Applicant.

Versus

General Public

. . Respondent.

*Regarding delayed registration of birth event under section 13(3) of the Birth and Death
Registration Act, 1969.*

Proclamation

Sh. Vikas Gupta s/o Sh. Prem Chand, r/o Village Ward No. 04, Nagar Panchayat Arki,
Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of the Birth &
Death Registration Act, 1969 alongwith affidavits and other documents stating therein that he was
born on 28-03-1985 at Village Word No. 4, Nagar Panchayat Arki, but his birth has not been
entered in the records of Nagar Panchayat Arki, Tehsil Arki, District Solan (H.P.) as per the Non
availability certificate No. 10 issued by the Registrar, Birth and Death Registration, N.P. Arki,
Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person
having any objection for registration of delayed birth event of Sh. Vikas Gupta may submit their
objections in writing in this office on or before 15-01-2025 at 10.00 A.M. failing which no objection
will be entertained after date of hearing.

Given under my hand and seal of this office on this 16th day of December, 2024.

Seal.

Sd/-
(YADVINDER PAUL, HAS),
*Sub-Divisional Magistrate,
Arki, District Solan (H.P.).*

Office of the Sub-Divisional Magistrate, Arki, District Solan (H. P.)

Case No.
46/2024

Date of Institution
16-12-2024

Date of Decision
15-01-2025

Sh. Dhani Ram s/o Late Sh. Ram Saran, r/o Village Soyali, Tehsil Arki, District Solan,
Himachal Pradesh . . Applicant.

Versus

General Public

. . Respondent.

Regarding delayed registration of death event under section 13(3) of the Birth and Death Registration Act, 1969.

Proclamation

Sh. Dhani Ram s/o Late Sh. Ram Saran, r/o Village Soyali, Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of the Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that his mother Late Smt. Mahantu Devi w/o Late Sh. Ram Saran was expired on 05-01-2001 at Village Soyali, but her death has not been entered in the records of Gram Panchayat Bhumti, Tehsil Arki, District Solan (H.P.) as per the Non availability certificate No. 10 issued by the Registrar, Birth and Death Registration, G.P. Bhumti, Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person having any objection for registration of delayed death in respect of Late Smt. Mahantu Devi, may submit their objections in writing in this office on or before 15-01-2025 at 10.00 A.M. failing which no objection will be entertained after words.

Given under my hand and seal of this office on this 16th day of December, 2024.

Seal.

Sd/-
(YADVINDER PAUL, HAS),
Sub-Divisional Magistrate,
Arki, District Solan (H.P.).

Office of the Sub-Divisional Magistrate, Arki, District Solan (H. P.)

Case No.
44/2024

Date of Institution
16-12-2024

Date of Decision
15-01-2025

Smt. Leena Devi d/o Sh. Pratap Chand, r/o Village Ser Galotia, P.O. Danoghat, Tehsil Arki, District Solan, Himachal Pradesh

. . Applicant.

Versus

General Public

. . Respondent.

Regarding delayed registration of birth event under section 13(3) of the Birth and Death Registration Act, 1969.

Proclamation

Smt. Leena Devi d/o Sh. Pratap Chand, r/o Village Ser Galotia, P.O. Danoghat, Tehsil Arki, District Solan, Himachal Pradesh has filed a case under section 13(3) of the Birth & Death Registration Act, 1969 alongwith affidavits and other documents stating therein that she was born on 15-03-1981 at Village Ser Galotia, P.O. Danoghat, but her birth has not been entered in the

records of Gram Panchayat Danoghat, Tehsil Arki, District Solan (H.P.) as per the Non availability certificate No. 10 issued by the Registrar, Birth and Death Registration, G.P. Danoghat Tehsil Arki.

Therefore, by this proclamation, the general public is hereby informed that any person having any objection for registration of delayed birth event of Smt. Leena Devi, may submit their objections in writing in this office on or before 15-01-2025 at 10.00 A.M. failing which no objection will be entertained after date of hearing.

Given under my hand and seal of this office on this 16th day of December, 2024.

Seal.

Sd/-
(YADVINDER PAUL, HAS),
Sub-Divisional Magistrate,
Arki, District Solan (H.P.).

**In the Court of Shri Multan Singh Banyal, Executive Magistrate-cum-Tehsildar Solan,
District Solan (H. P.)**

In the matter of :

Smt. Pano Devi d/o Shri Sunder w/o Shri Krishan Dutt, r/o Village Bohron, Post Office Kabakalan, Tehsil & District Solan (H.P.) . . .*Applicant.*

Versus

General Public

. . .*Respondent.*

Subject.—Reagarding delayed Registration of Birth and Death under section 13(3) of Birth and Death Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003.

Proclamation

Whereas, the applicant Smt. Pano Devi d/o Shri Sunder w/o Shri Krishan Dutt, r/o Village Bohron, Post Office Kabakalan, Tehsil & District Solan (H.P.) has moved an application before the undersigned under section 13(3) of Birth & Death Registration Act, 1969 and Section 9(3) of H.P. Birth & Death Registration Rules, 2003 alongwith affidavit and other documents for entering her date of birth *i.e.* 01-01-1979 and place of birth is at Village Bohron, P.O. Kabakalan, Tehsil & District Solan (H.P.) but her date of birth could not be entered in the record of Gram Panchayat Kabakalan, Tehsil & Distt. Solan.

Now, therefore, by this proclamation, the general public is hereby informed that any person having any objection(s) for the registration of delayed date of birth of Smt. Pano Devi d/o Shri Sunder w/o Shri Krishan Dutt, r/o Village Bohron, Post Office Kabakalan, Tehsil & District Solan (H.P.) may submit their objection in writing or appear in person in this court on or before 24-01-2025 at 10.00 A.M., failing which no objection will be entertained after expiry of date.

Given under my hand and seal of the court on this 23rd day of December, 2024.

Seal.

Sd/-
(MULTAN SINGH BANYAL),
Executive Magistrate-cum-Tehsildar,
Solan, District Solan (H.P.).

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Sh. Dev Raj aged 26 years D.O.B. 12-06-1998, s/o Shri Sher Singh, r/o Village Simbal Ka Pani, P.O. Goela, Tehsil Kasauli, Distt. Solan (H.P.)

2. Smt. Sakshi Aged 22 years D.O.B. 22-05-2002, d/o Sh. Madan Singh, r/o Village Chakrawan (Deed) P.O. Mehandobogah, Tehsil Pachhad, Distt. Sirmaur (H.P.) presently residing at Village Simbal Ka Pani, P.O. Goela, Tehsil Kasauli, Distt. Solan (H.P.)

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Dev Raj aged 26 years D.O.B. 12-06-1998, s/o Shri Sher Singh, r/o Village Simbal Ka Pani, P.O. Goela, Tehsil Kasauli, Distt. Solan (H.P.) (Bride groom) and Smt. Sakshi Aged 22 years D.O.B. 22-05-2002, d/o Sh. Madan Singh, r/o Village Chakrawan (Deed) P.O. Mehandobogah, Tehsil Pachhad, Distt. Sirmaur (H.P.) presently residing at Village Simbal ka Pani, P.O. Goela, Tehsil Kasauli, Distt. Solan (H.P.) presently residing at Village Simbal Ka Pani, P.O. Goela, Tehsil Kasauli, Distt. Solan (H.P.) for the registration of their marriage u/s 15 of the Special Marriage Act, 1954. The applicants have further declared in their affidavits dated 15-10-2024 that they solemnized their marriage with each other on 02-09-2021. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 13-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 13-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Sh. Narender Kumar aged 33 years D.O.B. 24-06-1991, s/o Late Shri Chandel Kumar, r/o V.P.O. Sanawar, Tehsil Kasauli, Distt. Solan H.P.

2. Smt. Dipa Kami Aged 26 years D.O.B. 04-06-1998, d/o Late Sh. Dhan Bahadur Kami, r/o Khokla Basti Jaigaon, Upper Khokla, Jalpaiguri, West Bengal.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Narender Kumar aged 33 years D.O.B. 24-06-1991, s/o Late Shri Chandel Kumar, r/o V.P.O. Sanawar, Tehsil Kasauli, Distt. Solan H.P. (Bride groom) and Smt. Dipa Kami Aged 26 years D.O.B. 04-06-1998, d/o Late Sh. Dhan Bahadur Kami, r/o Khokla Basti Jaigaon, Upper Khokla, Jaigaon Jalpaiguri, West Bengal at present residing at V.P.O. Sanawar, Tehsil Kasauli, Distt. Solan (H.P.) for the registration of their marriage u/s 15 of the Special Marriage Act, 1954. The applicants have further declared in their affidavits dated 04-12-2024 that they solemnized their marriage with each other on 10-05-2022. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-

MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Sh. Mahipal aged 28 years D.O.B. 28-06-1996, s/o Shri Devraj, r/o Village Jakhroda, P.O. Pratha, Sub-Tehsil Parwanoo, Tehsil Kasauli, Distt. Solan H.P.

2. Mrs. Aarti Katariya Aged 26 years D.O.B. 18-02-1998, d/o Sh. Sulekh Chand, r/o House No. 3572, Sector-25, Chandigarh-160 014.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Mahipal aged 28 years D.O.B. 28-06-1996, s/o Shri Devraj, r/o Village Jakhroda, P.O. Pratha, Sub-Tehsil Parwanoo, Tehsil Kasauli, Distt. Solan H.P. (Bride groom) and Mrs. Aarti Katariya Aged 26 years D.O.B. 18-02-1998, d/o Sh. Sulekh Chand, r/o House No. 3572, Sector-25, Chandigarh-160 014. for registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 30-11-2024 that they solemnized their marriage with each other on 11-01-2018. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025 failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-

MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Sh. Amandeep Singh aged 27 years D.O.B. 19-09-1995, s/o Shri Sukhdev Singh, r/o Block No. 6, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P.

2. Mrs. Amanjot Kaur Aged 24 years D.O.B. 28-07-1998, d/o Sh. Raghbir Singh, r/o Block No. 6, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan, H.P.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Amandeep Singh aged 27 years D.O.B. 19-09-1995, s/o Shri Sukhdev Singh, r/o Block No. 6, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P. (Bride groom) and Mrs. Amanjot Kaur Aged 24 years D.O.B. 28-07-1998, d/o Sh. Raghbir Singh, r/o Block No. 6, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan, H.P. for registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 23-09-2022 that they solemnized their marriage with each other on 13-08-2021. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Mr. Piyush Sharma aged 31 years D.O.B. 09-03-1993, s/o Shri Kamal Kishore, r/o House No. 79, Ward No. 4, Kashmiri Mohala Kasauli, P.O. & Tehsil Kasauli, District Solan H.P.

2. Mrs. Ishita Thakur Aged 29 years D.O.B. 15-10-1995, d/o Sh. Naresh Kumar, r/o House No. 2172, Sector-27C Chandigarh-160019

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Mr. Piyush Sharma aged 31 years D.O.B. 09-03-1993, s/o Shri Sh. Kamal Kishore, r/o House No. 79, Ward No. 4, Kashmiri Mohala Kasauli, P.O. & Tehsil Kasauli, District Solan H.P. (Bride groom) and Mrs. Ishita Thakur Aged 29 years D.O.B. 15-10-1995, d/o Sh. Naresh Kumar, r/o House No. 2172, Sector-27C Chandigarh-160019 for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 30-11-2024 that they solemnized their marriage with each other on 31-07-2024. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Mr. Akhil Dara aged 36 years D.O.B. 31-08-1988, s/o Sh. Rajinder Kumar, r/o Plot No. 42-A, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P.

2. Mrs. Pranshu Khurana Aged 35 years D.O.B. 07-09-1989, r/o House No. 2181, Sector-13, Karnal, Haryana.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Mr. Akhil Dara aged 36 years D.O.B. 31-08-1988, s/o Sh. Rajinder Kumar, r/o Plot No. 42-A, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P. (Bride groom) and Mrs. Pranshu Khurana Aged 35 years D.O.B. 07-09-1989, r/o House No. 2181, Sector-13, Karnal, Haryana for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 06-12-2024 that they solemnized their marriage with each other on 03-02-2014. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-

MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Mr. Vikas Kumar aged 44 years D.O.B. 22-05-1980 s/o Sh. Shri Ram, r/o Village Thana (372) Chandi, Tehsil Krishangarh, District Solan H.P.

2. Mrs. Ashu Devi Aged 30 years D.O.B. 15-10-1994, d/o Sh. Jaya Nand, r/o Village Jandhori, P.O. Pratha, Tehsil Kasauli, District Solan H.P.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Mr. Vikas Kumar aged 44 years D.O.B. 22-05-1980 s/o Sh. Shri Ram, r/o Village Thana (372) Chandi, Tehsil Krishangarh, District Solan H.P. (Bride groom) and Mrs. Ashu Devi Aged 30 years D.O.B. 15-10-1994, d/o Jaya Nand, r/o Village Jandhori, P.O. Pratha, Tehsil Kasauli, District Solan H.P. for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 19-11-2024 that they solemnized their marriage with each other on 09-10-2019. Before taking further action in the said

application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Mr. Kamal Kumar aged 40 years D.O.B. 31-05-1984 s/o Late Sh. Bahadur Singh, r/o Village Dhandri, P.O. Jagjitnagar, Tehsil Kasauli, District Solan H.P.

2. Mrs. Sarita Aged 35 years D.O.B. 08-10-1989, d/o Sh. Gaman Thakur Damai, r/o c/o Ram Chander, V.P.O. Krsihangarh Kuthar, Tehsil Kasauli, District Solan H.P.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Mr. Kamal Kumar aged 40 years D.O.B. 31-05-1984 s/o Late Sh. Bahadur Singh, r/o Village Dhandri, P.O. Jagjitnagar, Tehsil Kasauli, District Solan H.P. (Bride groom) and Mrs. Sarita Aged 35 years D.O.B. 08-10-1989, d/o Sh. Gaman Thakur Damai, r/o c/o Ram Chander, V.P.O. Krsihangarh Kuthar, Tehsil Kasauli, District Solan H.P. for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 21-11-2024 that they solemnized their marriage with each other on 21-02-2024. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025 failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Mr. Nitish Dara aged 39 years D.O.B. 14-04-1985 s/o Sh. Rajinder Kumar Dara, r/o Plot No. 42-A, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P.

2. Mrs. Upma Dara Aged 37 years D.O.B. 20-12-1987, d/o Sh. Tejpal Pahuja, r/o House No. 705, Ward No. 1, Ram Nagar Hodal, Haryana

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Mr. Nitish Dara aged 39 years D.O.B. 14-04-1985 s/o Sh. Rajinder Kumar Dara, r/o Plot No. 42-A, Sector-2, Upmohal Parwanoo, Tehsil Kasauli, District Solan H.P. (Bride groom) and Mrs. Upma Dara Aged 37 years D.O.B. 20-12-1987, d/o Sh. Tejpal Pahuja, r/o House No. 705, Ward No. 1, Ram Nagar Hodal, Haryana for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 06-12-2024 that they solemnized their marriage with each other on 07-02-2010. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 17-01-2025 failing which the marriage shall be got registered as per the provisions of the law.

Issued on 17-12-2024 under my hand and seal of the court.

Seal.

Sd/-

MAHENDER PARTAP SINGH HAS,
*Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).*

In the Court of Sub-Divisional Magistrate, Kasauli-cum-Marriage Officer, Kasauli

1. Sh. Vishal Kumar aged 32 years D.O.B. 05-05-1992 s/o Sh. Devi Chand, r/o House 19C Mashobra Kasauli, P.O. & Tehsil Kasauli, District Solan H.P.

2. Smt. Rakhi Aged 28 years D.O.B. 10-01-1996, d/o Shri Pawan Kumar, r/o House No. 3759/7, Ward No. 7, T.C. Karar, S.A.S. Nagar Mohali, Punjab.

Versus

General Public

Notice u/s 15 of the Special Marriage Act, 1954.

An application under section 15 of the Special Marriage Act, 1954 has been received in this court from Sh. Vishal Kumar aged 32 years D.O.B. 05-05-1992 s/o Sh. Devi Chand, r/o House 19C Mashobra Kasauli, P.O. & Tehsil Kasauli, District Solan H.P. (Bride groom) and Smt. Rakhi

Aged 28 years D.O.B. 10-01-1996, d/o Shri Pawan Kumar, r/o House No. 3759/7, Ward No. 7, T.C. Karar, S.A.S. Nagar Mohali, Punjab for the registration of their marriage u/s 15 of the special Marriage Act, 1954. The applicants have further declared in their affidavits dated 08-08-2024 that they solemnized their marriage with each other on 11-11-2022. Before taking further action in the said application, objections from the general public are invited for the registration of this marriage. The objections in this regard should reach this court on or before 16-01-2025, failing which the marriage shall be got registered as per the provisions of the law.

Issued on 16-12-2024 under my hand and seal of the court.

Seal.

Sd/-
MAHENDER PARTAP SINGH HAS,
Marriage Officer-cum-Sub-Divisional Magistrate,
Kasauli, District Solan (H. P.).

**In the Court of Sh. Gopal Chand Sharma (H.P.A.S), Sub-Divisional Magistrate, Shimla
(Urban), District Shimla, Himachal Pradesh**

Ms. Rajesh Pal d/o Late Sh. Jai Singh Thakur, r/o St. Albans Cottage, Near Govt.
Sr. Secondary School, Shimla (H.P.) . . Applicant.

Versus

General Public

. . Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Ms. Rajesh Pal d/o Late Sh. Jai Singh Thakur, r/o St. Albans Cottage, Near Govt. Sr. Secondary School, Shimla (H.P.) has preferred an application to the undersigned for registration of date of birth of herself namely RAJESH PAL (DOB-07-04-1961) at above address in the record of Municipal Corporation, Shimla.

Therefore through this proclamation, the general public is hereby informed that any person having any objection for entry of date of birth mentioned above, may submit his objection in writing in this court within 30 (Thirty) days from the date of publication of this notice in official Gazette. No objection will be entertained after prescribed period and application will be decided accordingly.

Given under my hand and seal of the Court on this 2nd January, 2025.

Seal.

Sd/-
(GOPAL CHAND SHARMA, HPAS),
Sub-Divisional Magistrate,
Shimla (Urban), District Shimla (H.P.).

CHANGE OF NAME

I, Rishma Devi w/o Ranjeet Kumar, r/o Village Dalchhamb, P.O. Katal, Tehsil Ramshehar, District Solan (H.P.) declare that I have changed my son's name from Jaitan Thakuar to Jatin Thakur. Please note.

RISHMA DEVI
w/o Ranjeet Kumar,
r/o Village Dalchhamb, P.O. Katal,
Tehsil Ramshehar, District Solan (H.P.).

CHANGE OF NAME

I, Primna w/o Sh. Partap Singh, r/o Village Klaeda, P.O. Surad, Tehsil Nankhari, District Shimla (H.P.) affirm and declare that my name is wrongly recorded as Pramila Devi in my Aadhar Card bearing No. 262619790099. That my correct name is Primna as per Panchayat Records and Bonafied certificate. That I want to change my name from Pramila Devi to Primna in my Aadhar Card.

PRIMNA
w/o Sh. Partap Singh,
r/o Village Klaeda, P.O. Surad,
Tehsil Nankhari, District Shimla (H.P.).

CHANGE OF NAME

I, Padmavati d/o Late Sh. Budhi Singh (Ex. JWO) who has been retired from the Indian Army and died on dated 11-08-2020 at Village Gaggal Har, P.O. Gaggal Khas, Tehsil Dheera, District Kangra (H.P.) do hereby declare that I have changed my name from Kumari Padmavathy to Padmavati as per my father's Army record. Please note.

PADMAVATI
d/o Late Sh. Budhi Singh
Village Gaggal Har, P.O. Gaggal Khas,
Tehsil Dheera, District Kangra (H.P.).

CHANGE OF NAME

I, Surabhi Choudhary d/o Sh. Ramesh Chand, r/o Village and P.O. Garh Jamula, Tehsil Palampur, District Kangra (H.P.) do hereby solemnly affirm and declare that the deponent has passed 10th Standard/Secondary School Examination in the year 2010 from CBSE Board under Roll No. 2202203 from D.A.V. Public School Alampur, District Kangra (H.P.) in which name of my mother has entered as Pushp Lata which is incorrect, as the correct name of my mother is Pushap Lata. That deponent has passed her Senior Secondary Examination in the year 2012 from CBSE Board under Roll No. 2704029 from D.A.V. Public School Alampur, District Kangra (H.P.) in which my name has wrongly been mentioned as Surbhi Choudhary which is incorrect, as the correct name of deponent is Surabhi Choudhary. That the correct spelling of my name as Surabhi Choudhary and my mother name as Pushap Lata may entered in concerned schools certificates.

SURABHI CHOUDHARY

*d/o Sh. Ramesh Chand,
r/o Village and P.O. Garh Jamula,
Tehsil Palampur, Destrict Kangra (H. P.).*

**In the Court of Sh. Gopal Chand Sharma (H.P.A.S), Sub-Divisional Magistrate, Shimla
(Urban), District Shimla, Himachal Pradesh**

Ms. Rajesh Pal d/o Late Sh. Jai Singh Thakur, r/o St. Albans Cottage, Near Govt.
Sr. Secondary School, Shimla (H.P.) . . Applicant.

Versus

General Public

. . Respondent.

Application under section 13(3) of Birth and Death Registration Act, 1969.

Ms. Rajesh Pal d/o Late Sh. Jai Singh Thakur, r/o St. Albans Cottage, Near Govt.
Sr. Secondary School, Shimla (H.P.) has preferred an application to the undersigned for registration
of date of birth of herself namely RAJESH PAL (DOB-07-04-1961) at above address in the record
of Municipal Corporation, Shimla.

Therefore through this proclamation, the general public is hereby informed that any person
having any objection for entry of date of birth mentioned above, may submit his objection in
writing in this court within 30 (Thirty) days from the date of publication of this notice in official
Gazette. No objection will be entertained after prescribed period and application will be decided
accordingly.

Given under my hand and seal of the Court on this 2nd January, 2025.

Seal.

Sd/-
(GOPAL CHAND SHARMA, HPAS),
Sub-Divisional Magistrate,
Shimla (Urban), District Shimla (H.P.).

ब अदालत श्री रमन ठाकुर, कार्यकारी दण्डाधिकारी, बैजनाथ, जिला कांगड़ा (हि0प्र0)

किस्म मुकद्दमा : दुरुस्ती

तारीख पेशी : 03-01-2025

ओम प्रसाद शर्मा पुत्र श्री खजाना, निवासी गांव चकोल वेहडू, डा0 मझौरणा, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0)।

बनाम

आम जनता

प्रार्थना—पत्र बराये दुरुस्ती राजस्व अभिलेख में प्रार्थी का नाम दुरुस्त करके ओम प्रकाश पुत्र श्री खजाना पुत्र श्री गुलावा के बजाए ओम प्रसाद पुत्र श्री खजाना पुत्र श्री गुलावा दर्ज करने बारे।

ओम प्रसाद शर्मा पुत्र श्री खजाना, निवासी गांव चकोल वेहडू, डा0 मझौरणा, तहसील बैजनाथ, जिला कांगड़ा (हि0प्र0) ने अदालत हजा में प्रार्थना—पत्र गुजारा है कि वह महाल चकोल वेहडू, कलियाणा, खुडली, लवोल तथा महाल तरेहल, तहसील बैजनाथ में भू—स्वामी है तथा राजस्व अभिलेख में उसका नाम ओम प्रकाश पुत्र श्री खजाना पुत्र श्री गुलावा है जबकि प्रार्थी का असल नाम ओम प्रसाद शर्मा पुत्र श्री खजाना पुत्र श्री गुलावा है। लिहाजा इसे दुरुस्त करके ओम प्रसाद शर्मा पुत्र श्री खजाना पुत्र श्री गुलावा किया जावे।

अतः सर्वसाधारण को इस इश्तहार के माध्यम से सूचित किया जाता है कि यदि किसी व्यक्ति को इस बारे में कोई उजर/एतराज हो तो वह दिनांक 03-01-2025 को सुबह 10.00 बजे इस न्यायालय में असालतन या वकालतन हाजिर आकर अपने उजर/एतराज पेश कर सकता है अन्यथा प्रार्थना—पत्र में नियमानुसार उचित आदेश पारित कर दिये जाएंगे।

आज दिनांक 09-12-2024 को मेरे हस्ताक्षर व मोहर द्वारा अदालत से जारी हुआ।

मोहर।

हस्ताक्षरित /—
सहायक समाहर्ता प्रथम श्रेणी,
बैजनाथ, जिला कांगड़ा (हि0प्र0)।

